

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

04 DECEMBER 2020

DAY 318



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Recording & Transcriptions

22 Woodlands Drive
Irene Woods, Centurion
TEL: 012 941 0587 FAX: 086 742 7088
MOBILE: 066 513 1757
info@gautengtranscribers.co.za

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B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



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PROCEEDINGS RESUME ON 04 DECEMBER 2020

CHAIRPERSON: Good morning Mr Chaskalson, good morning everybody.

ADV CHASKALSON SC: Morning Chairperson.

CHAIRPERSON: Are we ready?

ADV CHASKALSON SC: We are Chairperson.

CHAIRPERSON: Good morning Mr Holden. Yes.

ADV CHASKALSON SC: Chair I wonder on my way in this morning I saw some disconcerting banner headlines and I
10 wonder if we might just clarify what seems to be a misunderstanding in the public eye.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Because the banner headline say R800 million stolen – how R800 million was stolen or something like that.

CHAIRPERSON: Yes. Yes.

ADV CHASKALSON SC: So if we can – can I just clarify what Mr Holden was R800 million of public funds stolen from Estina Dairy?

20 **MR HOLDEN:** No it was not.

ADV CHASKALSON SC: How much in public funds went into Estina Dairy in total?

MR HOLDEN: It was R280 million.

ADV CHASKALSON SC: Indeed. And what does the R800 million refer to?

MR HOLDEN: The R800 million refers to the aggregate deposits that is all of the deposits that have taken place into the Estina account and the importance of the figure is that we can show that all of the transfer that constituted that R800 000 the vast majority were drawn from the original R280 million deposited by the Free State Government.

ADV CHASKALSON SC: So that R280 million went in over time into the Estina account and then parts of it were taken
10 out and then circulated within the Gupta Enterprise and then put back in so that it looked like instead of a total of R280 million being deposited in there as R800 million depositing – deposited in?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: But the total amount of public funds was R280 million?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Thank you.

CHAIRPERSON: Yes okay thank you.

20 **ADV CHASKALSON SC:** Chair when we adjourned yesterday we had reached the end of part 3 of tranche 0 on the diagrams and I indicated that to speed things up we would not be looking at every single transaction we would just taking a fairly high level overview of the movement of money. And so if I can ask Mr Holden to go back to the big

overview of tranche 0 which is at page 672?

MR HOLDEN: Certainly and just to correct you. We did not actually complete part 3. We reached step 5 of ...

ADV CHASKALSON SC: Step 5 – step 5 of part 3.

MR HOLDEN: Of 7.

ADV CHASKALSON SC: Sorry step?

MR HOLDEN: Step 5 of 7.

ADV CHASKALSON SC: Step 5 of 7? Okay well we – we can go back to part 3 just to – on the big picture to – to
10 finish it off but if we go to page 672. To orient the Chair for where we will be going forward 672 is a high level overview of tranche 0. We have done part 1 can you highlight part 1 on the screen? Or maybe it is easier to refer to it by your code. What – what do the black arrows reflect?

MR HOLDEN: Certainly. The black arrows reflect the internal South African based accounts that is part 1 of tranche 0.

ADV CHASKALSON SC: And then the red arrows?

20 **MR HOLDEN:** The – I do not think we to the red arrows. We have the pink arrows which is part 2 over here.

ADV CHASKALSON SC: Sorry I have some colour reading issues. The pink arrows are part 2 okay. And the green arrows?

MR HOLDEN: The green arrows are part 3 and it – it is a

little bit complicated to trace but it goes – so – so as ...

ADV CHASKALSON SC: I am afraid for the purposes of the record because we all going to come back to read a transcript you going to have to describe what you mean by and so and so because we will not see the video.

MR HOLDEN: Oh dear.

ADV CHASKALSON SC: The video at the same time.

MR HOLDEN: Okay. The green arrows refer to part 3 as I call it of the – of Tranche 0 which is deals with the
10 dissipation of \$400 000.00 from Gateway Limited through to a number of different accounts. We have a movement down on the 23 September 2013 of \$400 000.00 into Global Corporations, Standard Chartered, Dubai Vest, US Dollar accounts. That is then – takes a downward leftward loop further down into Global Corporations, Bank of Abu Dhabi. Durham based account on the same day if I may just zoom in. That amount then goes up and that is a 1.7 million Dirham cash withdrawal on the 24th and there is two streams that flow from that cash withdrawal. The first
20 stream which I will focus on here is a transfer that we spoke about yesterday that goes from the cash all the way to the right and then takes an upward trajectory and then again left and that is the 367 245.00 Durham which we suspect went to Hawala currency exchanges. The

The second stream of cash 1.3 million Durham is

transferred also on the 24th it goes to the right and then up and then to the left again to enter into Global Corporations, Bank of Baroda, Dubai based Durham account. Of that amount immediately after it is received \$100 000.00 dollars which is equal to 367 450.00 Durham is then paid into Fidelity Enterprises Bank of Baroda Dubai based US Dollar account.

It – at this point it co-mingles with the whole series of other parts of this tranche to fund a transfer that moves
10 downwards to the left of \$900 000.00 that is made to Oakbay Investments, Bank of Baroda Johannesburg account 024/034 and I will explain exactly how that amount is funded very shortly.

The remainder of the cash part of it has been deposited 368 750.00 Durham is transferred on the 7 October and it goes upwards to the left and it is says Cash given to Vikus in the ledger. I suspect that this was most likely an employee of the Gupta Enterprise called Vikus Chaturvedi. And Vikus Chaturvedi was an employee who
20 was based in India who is responsible for amongst other things logistical exercises for the Gupta Enterprise organising visas and plane tickets and sort of odd job duties on the ground.

If I may return?

ADV CHASKALSON SC: Please do.

MR HOLDEN: To the way in which the 900 000 which I am indicating here. I am going to try and zoom in to make it a bit clearer. This \$900 000.00 transfer.

CHAIRPERSON: I am sorry what page is that – that diagram?

ADV CHASKALSON SC: That is 672 which is the big overview of part 1. If – to look at it in closer detail – sorry.

CHAIRPERSON: No my 672 [talking over one another] red. That one has three reds. Mine does not. My 672 does not
10 have three red destinations as – my 672.

ADV CHASKALSON SC: 671 I am sorry Chair. 671.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: 671.

MR HOLDEN: Okay, okay alright. Okay.

MR HOLDEN: So to return this \$900 000.00 transfer that is paid from Fidelity Enterprises Bank of Baroda account into Oakbay Investments that is funded from three different sources of funds.

20 \$100 000.00 of that we have just described and that comes from the original \$400 000.00 deposit that started part 3 of tranche 0. R750 000.00 of that is drawn from a payment in here which is actually one of the few times we see a transfer in from an outside source in relation to Estina and it is an amount of \$754 755.46 pennies and that was also transferred on the 24 September 2013 into

Global's Bank of Baroda Dubai based US Dollar accounts and it is reflected on the spread sheet as JJT. We will explore in quite a bit more detail in further sessions the exact identify of JJT suffice the note here that JJT was wholly owned by the Worlds Window Group and was one of the entities that entered into a series of kickback agreements relating to the Transnet Flow of Funds.

I cannot definitively state at this point based on the documents available to me that this 750 000 definitely
10 derived from the Transnet payments because at the same time as those payments were being made to JJT and onwards onto the Gupta Enterprise they were also undertaking a whole series of other transactions at the same time around money laundering.

So unfortunately we cannot say definitively that this is from the Transnet contracts but we do know definitively that it is from JJT.

That is then – in this account when we move to a further – further part 4 there is \$50 000.00 that remains in
20 the Global Corporation Bank of Baroda Dubai account which brings the balance to \$800 000.00 once the JJT amount has been paid in. And that \$800 000.00 is then transferred to Fidelity Enterprises to join the 100 000.00 that had been paid in by Global Corporation and that is then paid onwards as the \$900 000.00 to Oakbay

Investments.

So correctly speaking we can say that from tranche 0 funds that were paid in by the Free State government of the \$900 000.00 that is paid to Oakbay Investments here we see 100 000.00 from his part – from part 3, 50 000.00 from part 4 and as I will describe in a little bit more detail later 100 000.00 from part 5 – from part 5 and a certain amount from tranche 2 as well.

ADV CHASKALSON SC: Can you then again very quickly
10 but so that people can follow what you are doing also
zooming in – can you take the Chair through tranche 0 part
4?

ADV CHASKALSON SC: Certainly. So tranche 0 part 4 is
the blue lines on the diagram and that is initiated the day
after the \$3 million is transferred into Gateway Limited
Standard Chartered account. \$1 million is transferred from
Gateway Limited to Standard Charter US Dollar account
and moves down on the diagram to Global Corporations,
Standard Chartered US Dollar account. Of that 750 000.00
20 Durham which is equal to roughly \$200 000.00 is then
transferred down on the 8 September 2013 into Global
Corporations Standard Chartered Durham based account.
On the same day that amount is then withdrawn in cash
which we can see going down. On the – again on the same
day the 750 000.00 Durham in cash is the paid into Global

Corporations Bank of Abu Dhabi Durham based account and then again on the same day \$200 000.00 is then transferred on the 8 September 2013 into a ledger entry that just says Shivani – Ashla Gupta and as we described earlier that is the wife and the sister of the Gupta brothers.

So 200 000.00 here is slightly less than 750 000.00 Durham. The remainder of that \$1 million ...

ADV CHASKALSON SC: Before you move off there can you just indicate to the Chair how we see another cash fire
10 break here?

MR HOLDEN: Absolutely. So as we have seen in the previous tranche at this point here which I am highlighting on the screen you see the 750 000.00 Durham withdrawn in cash.

ADV CHASKALSON SC: Well can you go even higher up because it is the same entity all the way through.

MR HOLDEN: Absolutely. It is Global Corporation which is receiving the funds and as we can see with the third part that was transferred into Global Corporations Bank of Abu
20 Dhabi to then facilitate the fire break. In this case the 750 000.00 Durham is transferred to a Standard Chartered Account owned by Global then withdrawn in cash and then transferred further onto Global Corporations Bank of Abu Dhabi account. So without access to – if you were Standard Chartered for example and you were looking at

this funds flow you would only see that 750 000.00 Durham in cash has been withdrawn. You would have no idea where that 750 000.00 Durham went to. You would need in order to trace this the bank statements for Global Corporations accounts across all of their banks that they hold so that obviously makes it very difficult for compliance departments for example for banks to pick that up.

Shall I describe the remainder of that – that part?

ADV CHASKALSON SC: Please do – please do.

10 **MR HOLDEN:** Okay. So of 1 million that is transferred on the 5 September 2013 700 000.00 of that is then transferred upwards to the right on the – that is two days after the payment is received. R700 000.00 on the 7 September gets paid into Global Corporation Bank of Baroda Dubai based US Dollar accounts.

Of that amount \$145 000.00 is transferred into Fidelity Enterprises Bank of Baroda Dubai based US Dollar account which moves sort of [00:15:43] to the right. And then finally the following day.

20 **ADV CHASKALSON SC:** Sorry just again for the record purposes to emphasise on part 4 of tranche 0 we are looking at blue arrows?

MR HOLDEN: That is correct blue arrows. And then finally with this stream we see on the following day on the 9 September \$142 000.00 which is transferred to an entity

that is recorded in the ledgers as Batia Share Purchase. We do not – we cannot – as we cannot see the exact recipient account number I cannot confirm exactly what Batia that refers to but it is worth nothing that in the Gupta Leaks files there is quite an extensive set of correspondence indicating a Joint Venture was entered into between a certain Gupta Enterprise Companies and an Indian based coal producer by the name of Bhatia Coal and I would strongly suspect that this refers to a purchase of
10 Bhatia shares in India.

And then finally to close out this blue line part the remainder of the 700 000.00 that had been transferred on the 7 September the – of that \$504 087.00 which equals 1.85 million Durham is transferred to the right on the diagram on the 7/9/2013. It reached Global Corporations Bank of Baroda Dubai based – Dubai based Durham account and on the same day we see an entry of that 1.85 million Durham being transferred to – to the Nadi Exchange for Hawala and that closes that out. So with – with parts 3
20 and 4 concluded we can see the total amount of tranche 1 funds – tranche 0 funds I should say that went to the Hawala exchange was 2 614 500.00 Durham and the amount that was given in cash to the Vikus Chaturvedi was 368 750.00 Durham.

ADV CHASKALSON SC: And then if you could finish off

tranche 0 with the fifth and last stream?

MR HOLDEN: Certainly. So tranche 0 is highlighted on the diagram in red and there are two unfortunately two streams involved here.

The first stream is a payment shortly after Gateway Limited receives its funds from Estina. It is paid from Gateway Limited Standard Chartered US Dollar account into Accurate Investments Limited Standard Chartered Dubai based US Dollar account.

10 And then immediately thereafter \$1.347 million is transferred to Linkway Tradings State Bank of India Johannesburg account.

I attempted to confirm the exact rand amount that that would equal to but the treatment of this deposit in Linkway's State Bank of India account was slightly strange. It does not reflect the full amount coming in but only a portion of it and it refers to it as transferred from ZA – transferred to ZAR accounts which would make me believe that either Linkway Trading the State Bank of India
20 received the deposit into a US Dollar denominated account and disbursed a portion of it into the Linkway Trading for that – I did then check the historical exchange rate on that day and it was almost exactly R10.00 to the dollar so the total amount that was transferred was roughly R13.47 million to Linkway Trading. And then as the final stream of

the 1.4 million that was paid on the 9 September there was 50 000.00 that remained in Accurate Investment account. This was then transferred over on the 23 September 2013 into Fidelity Enterprises Standard Chartered Dubai based US Dollar account which it moves to the right here. It is joined by a transfer that had to be made five days previous from Gateway Limited Standard Chartered US Dollar account into Fidelity Enterprises Standard Chartered Dubai based US Dollar account of 50 000.00. And then that same

10 day we see a transfer of \$3.1 million from Fidelity Enterprises Standard Chartered Dubai based US Dollar account into Oakbay Investments Bank of Baroda Johannesburg account. Of that \$3.1 million we can definitively trace 100 000.00 to tranche 0 and the remainder 3 million to tranche 2. So if we look at the bottom here we can see again a corresponding end point the final railway station stop the exit point for Linkway Trading in this tranche but this tranche they earned \$1.347 million and Oakbay Investments is paid formerly in dollars

20 at this time of which \$250 000.00 is sourced from tranche 0. And that concludes the section.

ADV CHASKALSON SC: Thank you. Thank you Mr Holden. It is quite a staggering exercise this and we are about to get to the worst of the lot which is tranche 1. So can I – can I ask you to – to go to page 692. And there we

see an overview of tranche 1 and can you tell the Chair how this – how you have broken up this tranche for the purposes of your analysis and what arrows mean what in terms of different sections of the – of the analysis?

MR HOLDEN: Certainly. But before I do so it might be worthwhile explaining some of the reasoning behind the way in which this tranche operated.

ADV CHASKALSON SC: Absolutely.

MR HOLDEN: So as we saw with tranche 0 we had money
10 coming in from the Free State government and immediately being put into a fixed deposit account and being left untouched for a period of time for over a year.

But as 2012 wore on Estina started having to develop and deliver a dairy farm in which case they started incurring certain costs.

In order to finance those costs as the following payment from the Free State government the tranche 1 payment was only going to be made in 2013 – 18 April 2013.

20 The – Estina took out a series of well Kamal Vashram I should say this took on a series of loans from Oakbay Investments and Aerohaven Trading which were immediately on paid to Estina and used for various costs and they were ultimately settled once the tranche 1 funds came in from the Free State government.

And then turning to the diagram it is I am fully aware that in this format it is almost illegible but it does give you a good sense of the extent of the complexity of the section.

As with the previous diagram the start point of money entering into the – the money flows is the green box of the Free State government which is right at the bottom. And then we have a series of red...

ADV CHASKALSON SC: Sorry while we at the green box
10 can you just clarify that the – that it was not R34.95.

MR HOLDEN: It was 34.95 million yes.

CHAIRPERSON: Ja there should be an M there.

MR HOLDEN: Correct.

CHAIRPERSON: Yes.

MR HOLDEN: And then we have obviously the red boxes which again are the final stepping off point on the journey. And we have a couple here and over here. The yellow boxes are again or anything that is colour coded in yellow is a – a stop along the way to a final destination adding
20 slightly more complexity to the – the yellow. Every loan account that is taken out is indicated as a circle. And every fixed deposit account is designated by this particular rhombus.

CHAIRPERSON: I am sorry I missed the part about the circle.

MR HOLDEN: So the – the fixed deposit accounts are represented by this – this rhombus here sort of like a slightly skew squiggly.

CHAIRPERSON: Oh okay, okay.

MR HOLDEN: Ja. Obviously just to distinguish it from the other squares, rectangles on the page. And then in terms of the colour coding.

ADV CHASKALSON SC: Sorry Mr Holden can you just go and clarify what you said about the loan accounts as well?

10 **MR HOLDEN:** Yes so the loan accounts are circles – are indicated as circles on the diagram.

CHAIRPERSON: So whenever I see a circle I must know that is a loan account?

MR HOLDEN: Correct Chair.

CHAIRPERSON: Okay.

MR HOLDEN: And whenever you see the skew square the rhombus here you will know that is a fixed deposit account.

CHAIRPERSON: Oh okay.

20 **MR HOLDEN:** And then anything else that is a square and yellow is a stop off point that is a current account or a saving accounts of some kind.

CHAIRPERSON: Ja okay.

MR HOLDEN: Then there are four – I broke this tranche down into four different sets of fund flows. The first part is indicated by green arrows, the second part is indicated by

purple arrows, the third part is indicated by blue arrows and the final part is indicated by an orangey red colour.

ADV CHASKALSON SC: Because this tranche is so dense I think it may be simpler when we – when we run through it to do it by the part diagrams rather than the overview diagram because there is so much on the overview diagram. So can I ask you to go to part 1 on page 693? And take us through what you describing in part 1?

MR HOLDEN: Certainly so what we see here Chair.

10 **ADV CHASKALSON SC:** I am sorry might I ask that every now and then where you see a fairly obvious money laundering device being employed maybe to flag it.

MR HOLDEN: Absolutely.

ADV CHASKALSON SC: Maybe not every time because that may take too long.

MR HOLDEN: Certainly. So this part is actually entirely a – a money laundering exercise to an extent. It is – if you look at the overview diagram on the left hand side the first large yellow box which is a little bit down here is the loan
20 that is granted by Oakbay to Kamal Vashram which is eventually settled with the money that is paid in by the Free State government. So what we are seeing here in a very complicated form is a circular movement of funds – I will go out a little bit further if I can. Circle movement of funds which effectively settles a loan back loop. This is

what is known as a loan back. If I go to...

ADV CHASKALSON SC: And the loan back is settled with public funds?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Not with Gupta Enterprises funds.

MR HOLDEN: That is correct. So none of the funds that are transferred from Oakbay to Kamal Vashram are actually ever fully derived from Oakbay Investments it is just an
10 advance on the Free State government's tranche payment and it is repaid in full by the Free State government funds.

I have broken just down into steps as well which might be a little bit easier to...

ADV CHASKALSON SC: If you want to take it step by step by all means do.

MR HOLDEN: And – so this would be I am not quite sure what the – it would be the following page in the...

ADV CHASKALSON SC: 694.

MR HOLDEN: 694. So the first step here is that Oakbay
20 transfers its loan which I put in inverted commas to Kamal Vashram's Bank of Baroda and Standard Bank accounts. In this slide we see the loan payments made over a period from the – I am trying to find the earliest payment. I think it is the 9 November 2012 and the latest payment is the 18 April 2013 and in total all of those payments total R6.342

million. And as we can see here these amounts are as we scroll over to the following slide. So here is Oakbay's loan and here are all the transactions being paid into Kamal Vashram's accounts.

The first one up here is his Bank of Baroda account and the one down here is the Standard Bank accounts and if you scroll over to the following step we see that Kamal Vashram transfers immediately the day he receives the loans from Oakbay he pays them directly into Estina
10 Standard Bank account 310864860 which is then used to pay a whole range of dairy related costs over the course of a period of time. Here of that R6 million original loan R4 135 829.63 goes to entities that I assume are related to the provision of the dairy farm. It goes to various contractors and local businesses in Vrede. And...

ADV CHASKALSON SC: But included in that is salaries to – well to him?

MR HOLDEN: Indeed. Thank you for pointing that out. One of the largest recipients of funds in that – and actually
20 over the life of the Estina Project, when I refer to dairy related costs, I also mean employee costs there. By far the largest recipient of funds personally from the Estina Project, in that regard was a man by the name of Chandra(?) Maprusaad(?).

And Chandra Maprusaad in the Gupta-leak-show was a

very close Gupta associate. His work – these [speaker not clear] – for South Africa was arranged by the Gupta enterprise. I think, as far as I recall, on the Sahara Base letterhead. He had no experience whatsoever in agriculture. It appears that ...[intervenes]

ADV CHASKALSON SC: What was his experience?

MR HOLDEN: His experience appears to be based – from what we can discern in the Gupta leaks is that he was either a junior to or a PA to a former Indian Intelligence officer.

10 And if we – I am not sure if you recall(?) here but I think there was a witness by the name of Pasan(?) who appeared before the Commission at a certain stage. And he described the experience of interacting with Chandra Maprusaad ...[intervenes]

CHAIRPERSON: Oh, yes, yes, yes. I think I remember that.

MR HOLDEN: That is right.

CHAIRPERSON: Ja.

20 Where Chandra Maprusaad could not understand why all the cows were dying and he had to explain that they cannot just survive off grass. That they needed feed as well.

CHAIRPERSON: Ja.

MR HOLDEN: Ja. And over time – over the length of the Estina Project, that we can see, he gets paid just over

R 3 million in this period. So a very substantial salary over this period of time.

CHAIRPERSON: H'm, h'm.

MR HOLDEN: We also see him interacting with the various Gupta Enterprise's employees, trying to advise them on how they can get certain security or diplomatic clearances in India.

CHAIRPERSON: H'm, h'm.

MR HOLDEN: So I would imagine that part of the reason he
10 was employed was to facilitate those sort of contacts.

CHAIRPERSON: H'm, h'm.

ADV CHASKALSON SC: There is also an amount of just under 460 000 that goes to AFGRI Equipment in one of your red boxes coming out of ...[intervenes]

MR HOLDEN: That is correct ...[intervenes]

[Parties intervening each other – unclear]

ADV CHASKALSON SC: [Indistinct]

MR HOLDEN: So of that, the six million loan, R 459 876 is paid on the 11th of January, to the right, to AFGRI
20 Equipment. They receive a further payment from this tranche, which is why I indicated a total there of 2.819 and I will show where those funds come from.

And then to close our first step. Some(?) is strange. I do not fully understand the reason behind this but one of the Oakbay Transfers to Kamal Vasram was for R 1.2 million on

the 6th of November.

And we can see here, it goes from Kamal Vasram's Standard Bank account all the way up gladly(?) to the right up to Estina's Bank of Baroda account. Current account 02255. That amount is then immediately put into a cash margin account and it stays there for...

Apologies. It says there for about 18-days where it is returned back to Estina's Bank of Baroda account. And then ultimately paid onwards to an entity that is described in the
10 budget(?) statement as Vrede, Pretorius and Bosman at that FNB address.

And some limited online searches seems to suggest that Pretorius and Bosman were a law firm based in Vrede.

ADV CHASKALSON SC: Can you... On this diagram, all of the money appears to be originating in an Oakbay loan and all of it goes through Kamal Vasram to Estina. Can you suggest that may – why the money flow may have be designed that way?

MR HOLDEN: The only possible reason I can think, is to
20 create a degree of confusion in tracing the funds to create a distance between Oakbay and Estina.

So that when an investigator was to look at the Estina, Standard bank account, for example, they will be seeing a whole range of transfers from Kamal Vasram who is the sole director of Estina. And he could argue at that point: See, I

am putting in my own funds into this venture.

Whereas, if you had Kamal Vasram's bank account, you realise that actually it is none of his own funds. It is Oakbay's funds. And as you will see, those Oakbay's funds are eventually returned.

ADV CHASKALSON SC: Can we then go to step 2?

MR HOLDEN: Step 3.

ADV CHASKALSON SC: Oh, sorry step 3. Step 3.

MR HOLDEN: Step 3 works slightly differently. There is as
10 loan amount that is transferred from Oakbay into Kamal Vasram's Bank of Baroda counter account, which is 024/262. 500 000 is transferred here up to the right. Of the 500 000 up to the 26th of October 2012, of that 150 000 is immediately ...[intervenes]

CHAIRPERSON: I am sorry Mr Holden, you have lost me again. What page is that one?

MR HOLDEN: Oh, that will be the following.

ADV CHASKALSON SC: 696, Chair.

CHAIRPERSON: 696?

20 **ADV CHASKALSON SC**: Indeed.

CHAIRPERSON: Okay. Yes, thank you.

MR HOLDEN: So on the 26th of October 2012, 500 000 is transferred to Kamal Vasram's Bank of Baroda bank account from the Oakbay loan facility. On that same day, 350 000 is then transferred into Sunday Trading's Standard Bank

account.

And as we discussed yesterday, Sunday Trading was a sole director of Sunday Trading, Kamal Vasram but it was implicated in a series of State Capture related scams with the Free State Government. And the remaining ...[intervenes]

ADV CHASKALSON SC: And was that involving – I think yesterday you testified that it involved selling computers derived from Sahara at a very substantial mark-up to the provincial government.

MR HOLDEN: That is correct Chair. Of the remaining R 500 000,00, a R 15 000,00 is transferred to Estina's Standard Bank account where it is used to pay – it is comingled with the other funds to pay all sorts of assorted dairy costs. And then we have a final, slightly complicated step.

ADV CHASKALSON SC: Page 697 Chair.

CHAIRPERSON: Thank you.

MR HOLDEN: Chair.

20 **CHAIRPERSON:** Yes?

MR HOLDEN: This begins with step 4 which I have indicated here at the bottom. Again, there was another amount of the Oakbay loans that behaves very differently and it becomes quite a complicated treatment which is quite clearly designed as a money laundering exercise.

We can see that on the 11th of October 2012, R 3.5 million is transferred from Oakbay's loan to Kamal Vasram's Bank of Baroda current account.

That is then immediately transferred onwards to Estina's Standard Bank account. And then on that same day, 2.359 million is paid to AFGRI Equipment. I am sorry, it is the following day rather than the same day.

So on the 12th of October, we see a line to the right here from Estina's Standard Bank to AGR I Equipment and that
10 brings the total to just over – just under three million, or at least two parts paid in.

ADV CHASKALSON SC: Three million to AFGRI?

MR HOLDEN: To AFGRI. That is correct. That leaves, after this payment was made, just over a million rand from the original R 3.5 million loan.

That is then transferred back into Kamal Vasram's Bank of Baroda account on the 12th of October 2012 and that is step 5 in my diagram here.

That amount then comingles with another amount in
20 Kamal Vasram's Bank of Baroda current account. My apologies.

ADV CHASKALSON SC: And that is the... That would be the missing 950 000 that we were discussing yesterday.

MR HOLDEN: Correct. So I suspect that that 150 000 might have derived from the Tranche 0 payment that was

paid to Estina's ABSA account because there is a payment out of 150 000.

And it seems quite a coincidence that that amount then gets reintegrated back into the laundering system. So that R 1.05 million joins with the R 150 000 and is then transferred into Estina, Bank of Baroda fixed deposit account.

So again, what is noticeable there is that it is not a Kamal Vasram's Bank of Baroda fixed deposit account. He is
10 transferring funds from his own account to create an Estina fixed deposit account.

The – this current account remains active for a – for just over five months if my maths is correct. No, apologies. It is...

ADV CHASKALSON SC: It is just under a year.

MR HOLDEN: Sorry, just under a year. Apologies. R 2 million is then – it is transferred from that fixed deposit account into Estina's Bank of Baroda account.

At that point, on the 4th, it joins an amount of
20 R 28 million that we saw from Tranche 0 that is paid into – that was the fixed deposit in Tranche 0.

It is then paid out to Estina's Standard Bank account that which then facilitates the R 30 million transfer to the right here to get ...[indistinct] [speaker is not clear] which is the offshore payment that we were discussing in the previous

tranche. And we can ...[intervenes]

ADV CHASKALSON SC: Just to recap here. When we dealt with that payment of just over 32 million Dollars to Gateway yesterday, 28 million had come from Tranche 0 and what you are describing here is the remaining 2 million.

MR HOLDEN: That is correct. So to clarify. We can definitively trace of that 30 million, 28 million definitely came from Tranche 0. 1.05 million definitely came from Tranche 1. And I suspect the remaining 150 000 came from Tranche 0.

10 **ADV CHASKALSON SC:** Then if you can complete the loan back story.

MR HOLDEN: Yes. Which is on the following ...[intervenes]

ADV CHASKALSON SC: That is then on page 698. So thus far, it looks like this entire money flow has been funded by an Oakbay loan.

MR HOLDEN: That is correct Chair. What we see now is the Free State Government pay in money sufficient to now settle those loans. So that happens as step 7 on my diagram here.

20 On the 18th of April 2013, R 34.95 million, I have included the M. So it is not R 34.95. It is paid on the Free State Government in Estina's Standard Bank account.

That is then – 10 million of which is then transferred immediately on the 19th of April 2013 into Estina's Bank of Baroda counter account 02255.

And then again on the same day, that is then placed into a fixed deposit account as step 8 with the account number 03/245.

This is where things get very complicated. Estina then... Oh, so Kamal Vasram then opens up a loan account of R 9.5 million up here in the left-hand corner which is guaranteed against the Estina's Bank of Baroda fixed deposit account which again Chair is a very useful way of breaking the flow of funds.

10 Because unless you have the underlining banking instructions from the Bank of Baroda, you will not know that the loan amount is actually based on Estina's funds.

That 9.5 million is then transferred out over the course of three days in one payment of 5 million and one payment of 4.5 million on the 19th of April 2013 and the 22nd of April 2013. Respectively, it gets paid to Oakbay.

ADV CHASKALSON SC: So that is Kamal Vasram repaying the original Oakbay advance on the basis of funds that are secured by Estina fixed deposit which in turn has been
20 funded by the Free State Government.

MR HOLDEN: That is correct Chair. And then the final step in this particular loan back scheme is step 10 up here which is that finally on the 14th of October 2013, the fixed deposit account is closed and the proceeds are paid back into Estina's Bank of Baroda counter account 02/255.

And the loan account is then closed and it is settled. As you can see there is a dotted line there and I should have made perhaps a little bit clearer.

When I indicate a dotted line, either they a fund flow based on a guarantee rather than an actual fund flow. If that makes sense.

And then here we have the loan get settled by the fixed deposit's closure. That happens on the 14th of October 2013.

10 And it is an amount of R 9 577 673, 94 which is the 9.5 million plus a small amount of added interest that has been settled against the 10 million funds which effectively closes the loan back and allows us to see that all of these funds are ultimately paid back using Free State Government funds.

ADV CHASKALSON SC: That is the end of part 2 of tranche... Sorry, part 1 of Tranche 1. Before we get to part 2. Maybe if we can go back to the big picture which is page 692. So you can show us where part 2 is going to fit in.

20 **MR HOLDEN:** Certainly. So part 2 on the big diagram is a – is indicated by the pink lines. And again, it will be making use of a fixed deposit and loan arrangement. And it eventually pays out funds to Vargafield, Linkway Trading and on dairy costs as well.

ADV CHASKALSON SC: Can we then go to the close up of part 2 which starts on page 699.

MR HOLDEN: Certainly Chair. What we have here is effectively another loan back scheme using Oakbay in which ultimately the funds are repaid using Free State Government funds. If I may go to the next page to start the step bits?

ADV CHASKALSON SC: Okay. That would be page 700
Chair.

CHAIRPERSON: Thank you.

MR HOLDEN: Okay. So on the 18th of April, the first step is the deposit in from the Free State Government of
10 R 34.95 million. It goes into Estina's Standard Bank here to the right. That is then transferred four days later, R 24.95 million.

It is then transferred up and to Estina's Bank of Baroda account. And if you recall from the previous part of Tranche 1. That was happening roughly at the same time as the R 10 million stream was devoted into a fixed deposit account.

And then on the 22nd of April 2013, so the same day, it is paid into Estina's Bank of Baroda current account. It is put
20 into a Bank of Baroda fixed deposit account, 03/246.

ADV CHASKALSON SC: H'm.

MR HOLDEN: To the following page?

ADV CHASKALSON SC: To the following page, which is 701. So we are now sitting with a fixed deposit of 25 million.

MR HOLDEN: And the step 3 here is that Kamal Vasram

again takes out a R 4 million loan with the Bank of Baroda with account number 06/297. And here I have indicated with a dotted line.

He takes it out against the Estina Bank of Baroda fixed deposit account, which as you saw previously, was a good way of breaking electronic flow of funds you would not be able to see where that was derived from.

That R 4 million ultimately ends up back in Estina's Standard Bank account operating, according to the Standard
10 Oakbay loan back.

But we saw here, which is quite interesting, when we were looking into this particular payment once I received the statements from the Commission is that the Bank of Baroda loan account for Kamal Vasram, the R 4 million loan account, if you look at that statement...

Well, it is – in the withdrawal figure, it actually states it is going to Oakbay Investments but it goes to no Oakbay Investment account at all.

Instead, it turns in Estina's Standard Bank account with
20 the reference Kamal Vasram.

So what I suspect happened was that the Bank of Baroda knew quite well that this amount was ultimately going to be paid onto Kamal Vasram anyway and skipped a step instead of paying it into Oakbay's account. Just paid it directly into Estina's Standard Bank account with the

reference Vasram.

ADV CHASKALSON SC: Can we then go to step 4?

MR HOLDEN: So step 4 with the R 4 million is then paid out in assorted costs. So we have R 157 320,00 that is paid out on the 8th of May 2013. That goes to Linkway Trading.

We have two transfers that are made on the 24th of April 2013 and the 6th of May 2013. And those ultimately get paid out to Vargafield here for a total of 3.25 million.

10 And then there is an approximate amount because there is a slight difficulty in disaggregating the exact funds at this point from the Estina bank account.

But according to my calculations, approximately R 358 739,00 of that R 4 million loan is paid on assorted dairy costs.

ADV CHASKALSON SC: And if you can do step 5 on page 703?

MR HOLDEN: Certainly. Chair, step 5 effectively closes this loan back system. On the 124th of October 2013,
20 Estina's Bank of Baroda fixed deposit account is closed and the proceeds are paid into Estina's Bank of Baroda current account 02/255.

And it is used to pay back the loan over here to the left going up to Kamal Vasram's account which then closes Kamal Vasram's R 4 million loan account.

The total amount that is paid through settled it is R 4 035 131,32. It is paid on the 14th of October 2013 which is the R 4 million original amount plus R 35 000,00 in interest that had been accrued in that period.

ADV CHASKALSON SC: And that is the end of part 2. If we go over the page to 704, we see a diagram of part 3 of this first tranche. And again maybe before we get into any detail there, if we can go back to the big picture of the whole of Tranche 1 on page 692. Can you show the Chair on 692
10 what we are going to be looking at now?

MR HOLDEN: Certainly. So part 3 funds are indicated on the big diagram in blue lines. And effectively what we have here is another loan back scheme being used.

This time, however, it is not Oakbay that is paying out a loan. It is Error(?) Heaven(?). And Error Heaven, as we discussed yesterday, is another Gupta enterprise company in which Ronica Ragavan is the primary director.

It goes through quite an extensive loan back loop. Again, funded by and settled with various amounts of loan
20 accounts and ultimately disgorges in payments of R 2 million.

Just over 2 million. R 2 052 112,00 on assorted dairy costs. R 5 ...[indistinct] [speaker not clear] million paid over to Vargafield over a period of time of – between the 30th of August 2013 and the 10th of September 2013.

R 2.2 million paid also to Vargafield and a final amount of R 8875 000,00 also paid to Vargafield.

ADV CHASKALSON SC: Does Gateway not pick up a little amount as well?

MR HOLDEN: Oh, correct. Correct Chair. And then there is an amount of approximately R 3.52 million that derives from Tranche 1, part 3 which we will turn to now that goes to Gateway Limited as part of the broader – a bigger 4.57. So seven million transfer. That transfer is funded with funds
10 from this tranche and also Tranches 2 and 3.

ADV CHASKALSON SC: Okay when you say 4.75 million. You are talking Dollars not Rands.

MR HOLDEN: No, that is Rands.

ADV CHASKALSON SC: Well, let us get to it. The total amount that will go to Gateway is Dollars. Well, let us get to it.

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: Can we then go back to page 204 where you start – where there is a diagram of Tranche 3.
20 And maybe to start with step 1 on page 705.

MR HOLDEN: So as we discussed previously, this step starts with the R 34.95 million payment into Estina's Standard Bank account by the Free State Government which is then placed into the Estina's Bank of Baroda account and then that creates the R 25 million Estina fixed deposit

account which we described in the previous part.

ADV CHASKALSON SC: And over the page on page 706 for steps 2 and 3.

MR HOLDEN: This is where it gets slightly more complicated. Step 2, Kamal Vasram takes out two loans. One worth R 2 million and one worth R 1 million. And it is guaranteed. The procedure to the left over here. Let me just zoom in to make that clearer.

You can see here that those two loans to Kamal Vasram
10 are guaranteed against a Estina fixed deposit account with account number 03/249.

That fixed deposit account is funded with Tranche 2 money. However, these two loans are ultimately settled against Tranche 1 money which I will then go and describe as we go further.

ADV CHASKALSON SC: And step 3.

MR HOLDEN: Step 3 Chair involves the payment of those two loans from Kamal Vasram. It gets paid into the Estina's Standard Bank account.

20 And I just need to double check the dates of those. The first one million rand is transferred on the 11th of June 2013. And as far as I can see, that is the first date of the second one as well.

It gets paid into Estina's Standard Bank account as step 3. And then pay onwards to various recipients. 625 000 is

transferred to Vargafield on the 17th of May 2013 and 250 000 is transferred on the...

My apologies Chair. On the 7th of June 2013. There is also two amounts which are transferred. Two amounts which eventually get comingled and transferred over to pay assorted dairy costs. The first amount is a million rand – R 1 052 112,00 which is paid out on the – between the 17th of May 2013 and the 10th of June 2013.

And then a further amount of R 1.339 million which is
10 paid out on the 12th of June 2013 – between
12th of June 2013 and the 4th of July 2013 of which a million
rand is derived from the loan.

ADV CHASKALSON SC: Then over the page on 707, you have steps 4 and 5.

MR HOLDEN: Here at step 4, Error Heaven grants a loan to Kamal Vasram of R 8.9 million and those amounts are, like with the Oakbay loan, immediately transferred into Kamal Vasram's Standard Bank account and from there immediately transferred into Estina's Standard Bank account where it is
20 used for a range of different expenditures which you can see here in step 5, the loan amounts are paid out.

And my calculation suggest that from this R 8.9 million loan, Vargafield has paid R 5 950 000,00. Gateway gets approximately R 557 000,00.

ADV CHASKALSON SC: And that 557 will form part

...[intervenes]

MR HOLDEN: A much larger payment.

ADV CHASKALSON SC: A much larger payment. You have got 19.87 million on your diagram.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Once again, just the inter-position of Vasram between Error Head(sic) and Estina, is serving what purpose?

MR HOLDEN: Chair, I suspect that the primary purpose...

10 Well, I suspect two primary purposes. The one is to make the tracing of the funds slightly more difficult.

And the second is that it creates a break between Error Heaven and Estina which could be used to justify...

If an investigator was to look at Estina's Standard Bank statements or for example the Free State Government, Kamal Vasram will be able to say: Look, I have put in this amount of money into Estina.

When in actual fact it derives from Oakbay. Sorry, from Error Heaven in this case.

20 **ADV CHASKALSON SC**: Indeed. And so then can we go over the page to 708 and steps 6,7, 8 and 9 starting with step 6?

MR HOLDEN: Certainly. So at the very top of the diagram, we see at step 6, Kamal Vasram takes out a R 19.5 million loan against the Estina fixed deposit account 03/297 which

had been funded by the original R 25 million payment.

That loan is then paid out on the 19th... Sorry, on the 20th of September 2013. The 419.5 million is then transferred as step 7 into Kamal Vasram's Bank of Baroda bank account.

So if I might highlight here? We see an amount of Estina fixed deposit account guaranteeing an amount for Kamal Vasram.

Therefore, creating a difficulty – it will be difficult for an
10 investigator to know that the loan amount is based on the fixed deposit account without the banking instructions.

And to turn to step 7. The R19 5 million loan is then immediately paid out to resettle – to settle the 2 million rand loan and the...

Apologies Chair. And the one million rand loan that I described slightly earlier. Then on the - settles those two loan accounts which are effectively settled with tranche 1 funds.

8.9 million of that original R90.5 million loan is then
20 transferred on the 20 September 2013 to Aerohaven and that effectively closes the Aerohaven loan and again what this entire structure has done, an investigator was to try and establish whether these - Kamal Vasram was the source of those loans of the payments into Estina. He will be able to present bank statements saying, as you can

see, I too got a loan from Aerohaven but I also repaid that loan from Aerohaven therefore these are my funds, being paid into Estina.

And then, as a final step, 5.8 million, that is the remainder of the R19.5 million loan, is transferred down into the right on the 20 September 2013 into Estina Standard Bank account and that is then comingled with a much larger set of amounts stemming from other tranches, from tranche 2 funds in particular and is ultimately paid
10 over to Gateway Limited. So we can see from this particular step of tranche one, 5.8 million is paid over to Gateway Limited.

ADV CHASKALSON SC: Then can we close out part 3 on page 709?

MR HOLDEN: Certainly. So step 10, which is the penultimate step, involves - the Estina fixed deposit account is closed and the proceeds are paid on the 14 October 2013 in Baroda account with the account number 92022213201001 and I indicated it as unknown Baroda
20 account because we are still not entirely clear based on the Commission's records the exact nature of the account. It does it turn up a suspense account but on the Bank of Baroda's own account statements, or the fixed deposit account, it refers to an entry called Zolofo(?) (Pty) Ltd.

I cannot – I am afraid I cannot entirely explain why

this takes place. I suspect that perhaps there was a clerical error and the amount was paid into the wrong account and then eventually returned back into Estina fixed deposit account.

ADV CHASKALSON SC: Either way the 25 million goes out and comes back a short while later.

MR HOLDEN: Pretty much on the same day and then – so which is my reasoning behind the clerical error that it happens on exactly the same day and then the R25 million
10 is then eventually – pays back out of the fixed deposit account into Estina’s Bank of Baroda account and then mercifully, as the final step, the R19.5 million Kamal Vasram loan is then settled with the closure of the fixed deposit account and that is settled with a payment of R19 593 066.61, that is paid on the 14 October 2013 which would be the 19.5 million plus roughly R93 000 in interest accrued.

ADV CHASKALSON SC: And then at page 710 we have part four which is mercifully simple. Maybe once again just
20 for orientation purposes if we can go back to 692 just to see where we are in the big picture.

MR HOLDEN: Certainly, so as I indicated previously part four is – the part four arrows are in a sort of orangey red colour and it involves the disposition of a remaining R2 million from Free State government which does not actually

take a very long trip around, but is eventually disgorged into Vargafield.

ADV CHASKALSON SC: And that we see on page 710.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: That is the end of tranche 1. Tranches 2 to 7 are a lot simpler, Chair.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: We will move them quite quickly.

CHAIRPERSON: Ja, that one took quite some time.

10 **ADV CHASKALSON SC:** Mr Holden, can you take us to tranche 2 on page 711?

MR HOLDEN: Certainly I am just bringing it up here. It has appeared to be disagreeing up with my computer, we have it up now.

ADV CHASKALSON SC: And maybe again take us to the starting point and the end points and anything of note in between?

MR HOLDEN: Absolutely, so again we started this funds flow with the green departure point box from the Free State
20 government and that is a payment of R30 million on the 26 April 2013 and that is tranche 2 funds and it ultimately is then paid out via – it is smurfed and then put into a fixed deposit account for a short period of time and then ultimately paid out to Gateway Limited where it is then further disbursed and we see the ultimate recipients of

these funds we see in the red boxes to the left here, we have three recipients. There is a 109 932.40 dollars that is paid to an entry that is unfortunately not described in the Dubai ledgers. But then we have an amount of 135 000 dirham which is paid out on the 13 October 2013 to an entity by the name of Third Eye Enterprises. Again I am not entirely sure what role they played within the Gupta enterprise, if any, and an amount of 265 270 dollars and 39 is paid to an enterprise by the name of Idea for Life
10 General Trading. Again, I have not entirely been able to verify the exact role that was placed on the Gupta enterprise, I prefer not to put things into evidence that I cannot – that would be pure speculation and then the final amount is ...[intervenes]

ADV CHASKALSON SC: Not yet that final amount, there is ...[intervenes]

MR HOLDEN: Oh, apologies. Further down the page, I have scrolled in too quickly. At the bottom of the page there is 73 222 dirham that is paid to an enterprise by the
20 name of Relevan Global and Relevan Global at the time was providing travel services to the Gupta enterprise, booking flight tickets in particular.

And then the final amount is paid from Gateway Limited into Fidelity Enterprises' account and it is an amount of 3.1 million dollars that is paid out on the 23

September 2013 and that is paid out to Oakbay Investments and as we discussed at the previous tranche that 3.1 million is constituted of 3 million dollars from tranche 2 and 100 000 dollars from tranche 1.

ADV CHASKALSON SC: And is there anything of note that you want to highlight about how the money gets from the Free State government to these end points or...?

MR HOLDEN: I think it relatively straightforward, this tranche, and I think the two sort of money laundering
10 techniques to note here, the first is as we discussed yesterday, the smurfing exercise where the R30 million is then divided into six equal parts of R5 million.

The second laundering exercise is to – it is actually related to the previous tranche, I think it might be worthwhile just highlighting how tranche 2 and tranche 1 do actually fit together.

So, as I described previously in tranche 1 there were two loans of a million rand and 2 million that were taken out and it is against this deposit here, so you can
20 see this fixed deposit here that those loans were issued.

ADV CHASKALSON SC: Thank you, Mr Holden. Then let us move forward to tranche 3 which is even simpler. Sorry, yes, tranche 3, page 712.

MR HOLDEN: Certainly.

ADV CHASKALSON SC: And can you take us through the

start and end points and anything in between that is of importance?

MR HOLDEN: Certainly. So what we have here, is the start point again is the yellow box and ...[intervenes]

ADV CHASKALSON SC: Sorry, the green box.

MR HOLDEN: Sorry, the green box, apologies. The green box, it is from Free State government and that is a R19.05 million transfer from the Free State government on the 3 May 2013 and that forms tranche 3.

10 The hallmark of this particular tranche is that it takes a very brief sojourn, it gets paid almost immediately from Estina Standard Bank account into a Stanlib unit trust account, an investment account, where it sits for approximately three months, just under three months and then the full amount plus the proceeds of that investment are then returned back into Estina's Standard Bank account on the 5 August 2013. So what we can see here is that by having access to the Free State government funds, the Gupta enterprise has by investing it in the Stanlib
20 Bedford Gardens account earned R222 000 for doing very little.

 On the 5 August I should also mention that – so on the 5 August the full amount is transferred back into Estina Standard Bank account, there it comingles with an amount of R1 million from an Aerohaven loan that was originally

sourced from tranche 1. Once that is comingled in with Standard Bank account a 100 000 goes to ...[intervenes]

ADV CHASKALSON SC: Sorry, just to clarify, that that Aerohaven loan is a loan to Kamal Vasram.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Which then goes into Estina.

MR HOLDEN: That is correct. Thank you, thank you, sorry, apologies, Chair. On the 7 August – sorry, on the 2 August of that R1 million loan back a R100 000 is
10 transferred to Kamal Vasram’s personal account. By joining with the 19.2 million the remainder of the 1 million provides sufficient funds to then transfer R19.78 million on the 7 August and that gets paid to Gateway Limited. That is the Standard Chartered US-based Dubai bank account. It takes a very brief and unnecessary detour. 1.6 million of that is transferred on the 11 August 2013 into Global Corporation’s Standard Chartered account.

ADV CHASKALSON SC: Sorry, Mr Holden, would I be
20 correct that the R19.2 million translates into 2 million dollars?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: And it lands in the Gateway Standard Chartered account.

MR HOLDEN: Of that 1.6 million dollars, it is almost immediately returned in two payments of 890 000 dollars

and 700 000 dollars both on the 12 August so effectively have just moved it around in circles in one day.

ADV CHASKALSON SC: But it goes to a different Gupta vehicle.

MR HOLDEN: That is correct and it goes to an Accurate Investments Standard Chartered US dollar account where it joins a further 400 000 that had been paid by Gateway Limited on the 12th. All those comingled back together, which is effectively the amount that had been transferred
10 earlier, 1.986 million dollars is then transferred out on the 12 August 2013 to Linkway Trading and again this amount and the previous Linkway Trading amount were the amounts that were invoice against the wedding costs.

ADV CHASKALSON SC: Can I stop here and maybe highlight a different laundry device that – that you have not mentioned. This is – if you talk about cash firebreak, this is almost an offshore firebreak because what we see here, I would like you to comment on this, what we see here ultimately is 19.05 million coming into Estina from the Free
20 State government and goes around in circles and then comes out in essentially the same amount to Linkway Trading. So a South African company receives public funds which are eventually going to be transferred to another South African company but in the meantime the money has gone offshore, has moved between different

vehicles offshore, so there is no way within South Africa absent the Gupta Leaks that we would ever be able to link the 19 million that was received by Estina to the 19 million that was paid to Linkway from Accurate because Estina's 19 million went to Gateway, Linkway's 19 million came from Accurate and we do not have sight of offshore records.

MR HOLDEN: Absolutely, I think that is an excellent point. Clearly this is all designed to create a – as soon as funds move from South Africa offshore and certainly as soon as they move into a jurisdiction like UAE or Dubai where the likelihood of compliance with mutually assistance request may not be as likely as what the United States or the UK, it becomes increasingly difficult to access those sort of bank statements and it creates effectively a blind spot that we have luckily been able to fill with the Gupta Leaks.

ADV CHASKALSON SC: And then – well, Chair, I see we have reached the tea break.

CHAIRPERSON: Yes but if you are about to finish a particular part we can finish and then take the break or ...[intervenes]

ADV CHASKALSON SC: I do need five minutes with Mr Holden just to flag something in relation to the fifth tranche which is ...[intervenes]

CHAIRPERSON: Let us do that. Ja, let us do that. Ja.

ADV CHASKALSON SC: Oh, no, no, no, I need to speak to him.

CHAIRPERSON: Oh, you to speak to him, okay. So you need the break.

ADV CHASKALSON SC: I do need a break, Chair, sorry, but we will move very quickly through 4, 5, 6 and 7.

CHAIRPERSON: Okay. You will use the tea break or you would like ...[intervenes]

ADV CHASKALSON SC: Yes, I will use the tea break, I
10 will not...

CHAIRPERSON: Alright, we will take the tea break now. It is about nineteen minutes past, we will resume at twenty five to twelve.

ADV CHASKALSON SC: Thank you.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Let us continue.

ADV CHASKALSON SC: Mr Holden can we go quickly
20 through ...[intervenes]

CHAIRPERSON: I am sorry, I did not say in the morning but let me say now, yesterday's oath or affirmation continues to apply.

MR HOLDEN: Thank you.

CHAIRPERSON: Okay, alright. Thank you.

ADV CHASKALSON SC: Mr Holden, can you take us quickly through tranche 4, again the starting point and the end points and anything between of consequence?

MR HOLDEN: Certainly, Chair, the starting point here again is in the green box, I think you might need the page number.

CHAIRPERSON: The page?

ADV CHASKALSON SC: 713, Chair.

CHAIRPERSON: 713, okay. Yes.

10 **MR HOLDEN:** So, Chair, it is initiated with the R29.95 million transfer, but the tranche 4 transfer from the Free State government, which is paid into Estina's Standard Bank account and without going through every single transfer, as you can see it is quite complicated, it effectively operates the same way as the previous tranches which involved the loan back in which you can see the amount that is paid in by the Free State government is paid into Estina's Bank of Baroda's current account and again used to open up a fixed deposit account and another loan
20 amount.

ADV CHASKALSON SC: I think what you are indicating to the Chair and to anyone who is watching, I think you indicated the loan and the fixed deposit incorrectly. So you indicated the loan as the fixed deposit and the fixed deposit as – oh, oh, no, no, you ...[intervenes]

MR HOLDEN: I have but I [inaudible – speaking simultaneously]

ADV CHASKALSON SC: You have used the wrong shapes.

MR HOLDEN: Yes, this is my lack of visual acumen. This is supposed to be this shape, a rounder shape rather than a circle and that is supposed to be circle up here but what you have effectively is R25 million put into a fixed deposit account which then secures a loan for Kamal Vasram and
10 the purpose of that loan is that again we have another Aerohaven loan back system which starts up here and in total it is R13.7 million that is transferred over from Aerohaven to Kamal Vasram's account and then into Estina's Standard Bank account which then immediately paid over to Vargafield and I will come to totals very briefly. And that Aerohaven loan is settled by the Kamal Vasram loan up here which is secured against the fixed deposit account and you can see on the 30 December 2013 that payment is – that loan is paid into Estina's Standard
20 Bank account and on the same day it is transferred from Estina's Standard Bank account into Kamal Vasram's personal account, that is a Standard Bank account and then on the same day it is transferred to Aerohaven.

And once that loan back is completed the fixed deposit account is closed and the amount that remains

after the settlement of the loan is transferred back into Estina's Standard Bank account and in total we see three different recipients of this particular tranche.

The first is Vargafield which received the largest amount, it gets paid R18.237 million out of this tranche. R5.825 million is paid to a company by the name of UTI which the Gupta Leaks show is a logistics and freight company and this was the cost of importing the dairy equipment from India.

10 And then we have on the furthest left hand side appropriate R4 million spent between December 2013 and March 2014 on a range of different dairy-related expenses including payments to SARS, South African Revenue Service, Eskom and on salaries as well.

ADV CHASKALSON SC: So this would be the only tranche that stays onshore.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Can we then go to tranche 5 on page 714 and starting with the – again – well, let us start
20 with the end points and go back to the start points because there are some questions I would like to ask you in relation to the start points.

MR HOLDEN: So we just start with the end points.

ADV CHASKALSON SC: So if we start with the end point.

MR HOLDEN: Okay. Well, the end points after this

particular tranche, Aerohaven earns R3.2 million by being participant to a loan back scheme. Vargafield is paid an amount of R19 million of which R14.3 million is from tranche 5 and then the remainder of that tranche is then paid out to Estina's FNB account which had then subsequently use of their main banking account and we can see two payments into Estina's FNB account. The first is on the 21 November 2014 of R3 890 752.40 and a payment of R15.79 million on the 5 August 2015 bringing
10 the total amount that is transferred from Estina's Standard Bank and Bank of Baroda's accounts into Estina into FNB account of R15.79 million.

ADV CHASKALSON SC: Can we then get to the start points? So the first one is Free State government – well, can you take us through the start points?

MR HOLDEN: Certainly. Chair, so the first start point -= well, actually the first I have indicated on the diagram is actually not first chronologically is the R30 million that gets paid in by the Free State government on the 25 July
20 2014.

Slightly preceding is a payment in of R6 720 657.79 and that is paid in on the 30 July.

ADV CHASKALSON SC: And where does that come from?

MR HOLDEN: We have now – I understand from the Commission when I first had a look at these amounts the

only information that I had was this particular reference and I had no idea what that might refer to. My evidence leader and other staff at the Commission have now alerted me to the fact that this is a reference that is used for all SARS payments for VAT rebates. So this is a SARS-related VAT rebate that is being paid into Estina, as is the amount that is below that is below that of 2.382 894.45.

ADV CHASKALSON SC: And, Chair, there will be further evidence, not from Mr Holden, but we are told, Mr Holden,
10 what that evidence is going to inform the Commission. Do you want to share – well, let me put on record what the Commission will adduce later.

A far greater amount than the VAT that was paid back in respect of these two payments was VAT that was fraudulently - well, was VAT that was fraudulently claimed in respect of payments to Vargafield who invoiced with a VAT number that does not exist and so, in truth, instead of being due, these payments of just over 9 million in aggregate from SARS, Estina's true position was that they
20 had claimed VAT – they had claimed VAT in respect of Vargafield inputs that was – let me just get the exact figure, 64 million of the VAT input costs that Estina claimed from SARS were claimed in respect of Vargafield VAT invoices that were fraudulent.

So this 9 million can actually be added to the public

funds that the Gupta's derived from the Estina enterprises.

And then if we can move then to tranche 6 on page 715.

MR HOLDEN: Certainly.

ADV CHASKALSON SC: And can you take us through the start points?

MR HOLDEN: Certainly, Chair. Again on the far left, as indicated with the green boxes there is an amount that comes into Estina's FNB account of R15.79 million that
10 ultimately derived from the previous tranche and that is paid on the 5 August 2015 and on the same day an amount of R60 million is transferred from the Free State government on the 8 May 2015 for R60 million into Estina's bank account.

ADV CHASKALSON SC: And ...[intervenes]

CHAIRPERSON: At this stage there is not – the money does not travel too long before it reaches the final destination.

ADV CHASKALSON SC: Indeed, Chair, it moves very
20 rapidly now and maybe, Mr Holden, can you comment on that? We saw very elaborate moves in the earlier tranches, can you offer some reasons as to why the money moves more directly and more quickly now?

MR HOLDEN: Certainly. By this point Estina's formal role within the Vrede dairy project had been terminated by the

Free State government and they had already received an undertaking from the Free State government that they would be paid the remainder of their investment amount. However, Estina had been relieved of the obligation to prove that they had invested their own funds, so at this point there was no need to generate a false set of inflows of funds to make it seem like more money was being invested by Estina. Effectively, have the abandonment of the round-tripping programme because there was no need
10 to fraudulently increase the number of deposits coming into their account.

CHAIRPERSON: Was it also not a sense of security, maybe peace of mind that nothing would ever happen, that these things would not be uncovered or would not be pursued by law enforcement agencies?

MR HOLDEN: I think that is a pretty good assumption.

CHAIRPERSON: Ja.

MR HOLDEN: I think we see at this point that by May 2015 at least already quite a substantial amount in known
20 about the Gupta enterprise's involvement in the dairy project yet there seems to be absolutely no movement towards an investigation and when investigations are undertaken by ENS forensics and later by the Public Protector in a temporary report – a preliminary report, sorry, those recommendations are effectively ignored. So I

think at this point the participants in the scheme would be I think very justified in feeling safe at this point.

CHAIRPERSON: Yes, thank you.

ADV CHASKALSON SC: And can you briefly describe the end points here?

MR HOLDEN: Certainly, so after a very brief sojourn in an FNB investment account and then into an FNB money market account the funds are eventually paid out. Vargafield is paid, here at the bottom right hand corner, it
10 is paid R3 416 479.10. Gateway is paid R45 091 652.50 and the reason, Chair, that this – we have not extrapolated further from this point is that the Gupta Leaks records that we do have only extend to the end of 2014.

So at this point we actually now have the corporate firebreak that my evidence leader was referring to because we have funds going offshore, but we have no idea how they were dissipated at this point.

And then we have three payments to SARS, South African Revenue Service, we have R28 387 635.73 that is
20 paid against – I am informed by the Commission that this is Estina's VAT number and that we have two amounts that are paid in relation to SARS e-Filing, one for R19 711.23 and one for R183 002.78. As yet I understand the Commission is still undertaking to establish who was referred to or what particular individual may have been

referred to with those reference numbers.

ADV CHASKALSON SC: And then finally, over the page, the last tranche, page 716. Very briefly take us through this tranche, it is a very simple tranche.

MR HOLDEN: Fortunately, this is a very easy tranche to describe. The input is again the green box, the Free State government, pays in R46 252 652 on the 5 May 2016 into Estina's FNB current account. The vast majority of that is almost immediately dissipated over the course of – it is
10 roughly 13 days.

There are four payments into Gateway Limited and Gateway Limited is paid a total of R40 737 452 and then after a brief sojourn in a call account, Estina FNB call account which is then returned – part of which is returned to Estina FNB account.

We have to payments that are made to South African Revenue Service again against Estina's VAT number and the total amount paid here is R5 384 412.26.

ADV CHASKALSON SC: Chair, that completes our
20 evidence on the Estina money flows. Mr Holden is now going to move to discuss some of the Transnet kickback money flows.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And for the most part those are addressed in bundle 6, Chair.

CHAIRPERSON: Okay, so this bundle can be put away?

ADV CHASKALSON SC: Not forever.

CHAIRPERSON: Ja, ja.

ADV CHASKALSON SC: Because we will come back to the ledgers in this bundle when we are describing some of the Transnet kickbacks to follow their movement offshore.

CHAIRPERSON: Oh, okay. Okay, I have got it.

ADV CHASKALSON SC: And this bundle, Chair, is covered by a separate statement so I must ask Mr Holden
10 to confirm the correctness of that statement. Maybe before I do so, Chair, I must apologise, there are a series of problems with the annexures to the statement in part because this evidence was brought forward and we did not – the preparation of the annexures was a bit rushed. We will periodically come to annexures which are duplicates of other annexures instead of the real document. Can I – we will sort all of this out on the weekend but rather than take you now to the full set of problematic annexures when I cannot cure it, can we do that if we bump into one of
20 those?

CHAIRPERSON: Yes, as and when.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Ja. Okay, alright.

ADV CHASKALSON SC: And I must apologise for that.

CHAIRPERSON: Okay. No, that is fine.

ADV CHASKALSON SC: Mr Holden, can I ask you
...[intervenes]

CHAIRPERSON: So we will now use the flow funds
bundle 6, hey?

ADV CHASKALSON SC: Indeed, Chair, and unless I refer
to bundle 5, assume that the references are bundle 6.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: Mr Holden, can I ask you to go
to page 160 and to identify the statement that runs from
10 160 to 162 as your statement?

MR HOLDEN: That is correct, Chair, this is my statement.

ADV CHASKALSON SC: And subject to the problems with
the annexures in relation to the report that is attached to
that statement will you confirm the correctness of the
statement and the report to which it refers?

MR HOLDEN: That is correct, Chair.

ADV CHASKALSON SC: And that report, Chair, is PEH1
which commences on page 163. Sorry, Mr Holden, will you
confirm that? It is not for me to confirm.

20 **MR HOLDEN:** Yes, this is the report that I compiled and it
starts at page 163.

CHAIRPERSON: Okay, alright.

ADV CHASKALSON SC: And, Mr Holden, this is a report
into money flows relating to the Gupta enterprise and what
you describe as the capture of Transnet. Can you briefly

give the Chair an ...[intervenes]

CHAIRPERSON: I am sorry, Mr Chaskalson, do you want me to formally admit the statement or not really?

ADV CHASKALSON SC: No, Chair, it is already referred to as PEH1 in the ...[intervenes]

CHAIRPERSON: Okay.

ADV CHASKALSON SC: Oh, sorry, sorry, the statement? Yes, please, Chair.

CHAIRPERSON: Statement, ja.

10 **ADV CHASKALSON SC:** Can the statement be formally admitted?

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And I must confess I am not sure where we are in the BB series.

CHAIRPERSON: Well, if you junior or somebody can check and then let you know? Later on we can do it as we go along.

ADV CHASKALSON SC: Thank you, Chair.

CHAIRPERSON: Ja.

20 **ADV CHASKALSON SC:** Mr Holden, can you briefly describe to the Chair which contracts and which money flows you will be considering in this statement? Sorry, in this report.

MR HOLDEN: Certainly. So, Chair, the focus of this report has been trying to use, amongst other things, the

Gupta Leaks and other available banking documentation and certain documentation that was made available to me by the Commission to try and identify and trace all the funds that were paid to entities that had entered into kickback contracts with China South Rail, with China North Rail and its subsequent merger company, CRRC.

We also engaged with a kickback contract in relation to the provision of cranes by a Chinese Manufacturer ZPMC.

10 And then finally, we also examine the flow of funds in relation to payments made to the Gupta enterprise by Liebherr and Liebherr was – Liebherr Africa was contracted by Transnet to provide cranes.

ADV CHASKALSON SC: And although the report precedes in a different sequence, I think it may be convenient to start with Liebherr because that is a self-contained topic whereas the ZPMC Cranes and the locomotives have a lot of common ground and context that needs to be described for them both.

20 So can I ask you to go to the section of your report which deals with Liebherr and that, Chair, is to be found at page 203, 203 of bundle 6. And most of the cast of characters who we will encountering here we have met before but there is one person who we have not met before who Piyoosh Goyal but can you explain to the Chair who

Piyoosh Goyal was?

MR HOLDEN: Certainly you will definitely be hearing about him a lot more in further evidence. Mr Goyal was the Chairman of the Worlds Window group of companies that was based in India and as I mentioned in previous testimony, the Worlds Window Group and the Gupta enterprise start doing business together in at least 2010 or 2011 in which period they engage in a whole series of money laundering activities and Piyoosh Goyal is in quite frequent contact with the Gupta enterprise and is effectively the most senior person the Worlds Window Group heading up this particular relationship.

ADV CHASKALSON SC: Then if we move now to the Liebherr contract and the Liebherr kickbacks, can we go to page 203 and can you briefly describe to the Chair what the Liebherr contract was about and how the Guptas become involved?

MR HOLDEN: Certainly, Chair. On the 4 December 2011 Transnet publicly advertised three separate requests for proposals, RFPs, related to the expansion of the Ngqura Container Terminal.

The first request for proposal required – called for the supply of 18 single lift rubber tyre gantry cranes with an option to purchase a further ten.

The second RFP called for proposals to supply four

twin lift ship to shore cranes with an option for a further three single lift cranes.

The third RFP asked for bidders just to make bids for both of those proposals combined.

ADV CHASKALSON SC: Going forward, when did Liebherr announce that it has been successful?

MR HOLDEN: On the 17 February 2014 Liebherr Cranes announced that it had received the contract to supply the 22 cranes to Transnet Port Terminals including the 18
10 single lift rubber gantry cranes and the four twin lift ship to shore cranes. Based on the supply we now concede that they won the bid on the basis of the third request for proposal which was to provide all of the necessary cranes.

ADV CHASKALSON SC: And then there will also be an option to extend the 18 and the 22 from what you have said in paragraph 73.

MR HOLDEN: That is correct, Chair.

ADV CHASKALSON SC: In paragraph 76 you make the point that you cannot identify obvious irregularities in the
20 award of the contract but what evidence have you seen that suggests the involvement of the Guptas?

MR HOLDEN: Certainly. On the – what the Gupta Leaks reveal is that on the 21 December 2011 Ashu Chawla sent an email to Piyoosh Goyal at his Worlds Window address with is Piyoosh@WorldsWindow.cc and attached to that

email was a document that emanated from Transnet in relation to this particular procurement.

ADV CHASKALSON SC: And can I then ask you to go to page 431? Is that the email to which you are referring?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: And can you situate that again for the Chair in the chronology of the tender?

MR HOLDEN: Certainly, that would be roughly nine months subsequent to the first advertisement of the request for proposal. Is that correct?

ADV CHASKALSON SC: No, I am afraid it is not.

MR HOLDEN: I am confusing February 2014 and February 2011.

ADV CHASKALSON SC: So if you go back to your paragraph 73 you will see when the RFP was advertised, 203.

MR HOLDEN: Apologies for that confusion. It is advertised on the 4 December 2011. So we have the email being sent 17 days after the advertisement of the tender.

20 **ADV CHASKALSON SC:** Can I then take you to page 432 and is this the attachment that went with the email?

MR HOLDEN: That is correct, Chair.

ADV CHASKALSON SC: And if you go down the document is there anything in particular that would be significant about – that you can point to that would be

significant about this document given that it was being leaked to the Guptas while the tender was pending?

MR HOLDEN: Certainly. What we have here is a memorandum that is sent from Mr Denzyl Pillay who was the executive manager of capital procurement at Transnet to a Mr Karl Socikwa. I am afraid I am not entirely certain of the pronunciation of his name who was the Chief Executive of Transnet Port Terminals..

CHAIRPERSON: Socikwa.

10 **MR HOLDEN:** Socikwa.

CHAIRPERSON: Socikwa. Yes, you got it right, Socikwa, ja.

MR HOLDEN: And what this does is provide the memorandum ...[intervenes]

ADV CHASKALSON SC: Sorry, if I might intervene here, Chair, the Commission is investigating how this leaked but in fairness to Mr Pillay and Mr Socikwa, we have our suspicions but our suspicions do not relate to either of them and I just wanted to put that on record.

20 **CHAIRPERSON:** Yes, yes.

ADV CHASKALSON SC: I do not want them to be associated with the leak.

CHAIRPERSON: Okay, alright.

MR HOLDEN: And what the memorandum does, Chair, is provide a background and a status update on this

particular request for proposal and it provides in the background a description of the way in which the tender was initiated and for what reason and then the page thereafter on 433 we can see there is a summary of milestones in that table which provides a very clear guideline to what Transnet Port Terminals will be doing at different stages of the tender process which I would submit would be a very useful – it is a very useful knowledge for a potential bidder and there is also very importantly at
10 paragraph 8 there is the heading Budget Implications which provides the total budget for the tender and the approved budget for the tender was R1.090 billion.

If I may add, Chair, that just in further corroboration of the Gupta leaks and the timing of the email we can we see that in the summary of milestones document the 4 December entry as advertised in the media says complete. So clearly it has been drawn subsequent to that date.

ADV CHASKALSON SC: You've mentioned earlier that Liebherr was successful and what you describe in your
20 report is a series of payments that Liebherr made to Gupta – a Gupta company in Dubai, Accurate Investments. I understand that's not contro – that VAT is not controversial, Liebherr had publically admitted that. Can you describe the sources that you have to identify what the amount of the payments that were made?

MR HOLDEN: Certainly so the first source is a source that we referred to in our – in my testimony yesterday which was the UAE ledgers which in that instance ran up until the early part of 2014 and there are – there's one notable payment that comes in from Liebherr in those letters. I should have mentioned, I am sure we will come to the individual files, the numbers that ledger entry is then corroborated by another document that was found within the Gupta leaks which is a statement, a bank statement or
10 at least a transaction record for Accurate Investments and it was being distributed amongst Gupta Enterprise staff. The second document is a continuation of the Dubai ledgers, I am not sure if you recall but yesterday we discussed how in February 2014 Ashitola wrote to Sanjay Grover and provided him an Excel spreadsheet and said please can you update these ledgers in this particular format hereon, and on a relative regular basis ...[intervenes]

ADV CHASKALSON SC: Chair if I might just interject
20 there that was the document that appeared at flow of funds volume 5, page 718, and then with 718.1 to 718.5, which had almost empty template ledgers for each of the Dubai based companies and a cash ledger as well.

MR HOLDEN: The task that they then performed was to take everyone of the updates that was sent by Sanjay

Grover over that period of time, the final one was sent in December 2014, and to take all of those entries and put them into a single spreadsheet so we have a full accounting of all the transactions for Global Corporation, for Accurate Investments, for Fidelity and Global Corporation over the period of February 2014 until roughly the 26th of December 2014.

ADV CHASKALSON SC: Can I ask you to go to page 439, Annexure O, is that the consolidated ledgers that you have
10 generated from all of these regular ledgers that are sent from Sanjay Grover to Ashu Chawla.

MR HOLDEN: That is correct Chair, I attached it as Annexure O to my statement.

ADV CHASKALSON SC: So that is not a document that is on Gupta Leaks but what it is, is it consolidates all of the information in the ledgers that are sent on a regular basis on Gupta Leaks into one consolidated set of ledgers for a period, how long does this period run?

MR HOLDEN: It runs from roughly mid-February, 17th of
20 February till the end of ...[intervenes]

ADV CHASKALSON SC: Which year?

MR HOLDEN: 17th of February 2014 until the end of year, roughly 26th of December I think is the final payment that I can see 2014.

ADV CHASKALSON SC: And Chair just to note this is one

of the annexures where we are going to have to reprint them because they were printed with margins that are too narrow so some of the figures don't show in the cells, they just show sort of XXX because they are too wide for the cells.

You talked about the ledgers we discussed yesterday, you have now discussed this Annexure O, what other sources have you used in relation to your examination of the Liebherr payments?

10 **MR HOLDEN:** We also I am sure you must remember Chair yesterday I described another Excel spreadsheet that I created which was to take the running totals in all the bank balances for Global, Accurate, Fidelity and so on and put them into a single spreadsheet so we can properly verify that the amounts that are being paid into the account and being dispersed outwards weren't co-mingled with other funds and it properly describes the flow of funds.

ADV CHASKALSON SC: And can I just give the reference that is Annexure A in Bundle 5 at page 113. And Mr Holden
20 you also refer and here we will have an annexure problem, to Annexure N to your report on the Transnet funds. If you – if you go to your statement at page – sorry your report at page 204 can you explain to the Chair what Annexure N is?

MR HOLDEN: Certainly the annexure which I am afraid is not produced as an annexure in here, is a set of bank

statements that had been removed from the original bank statement format and put into an Excel spreadsheet and that had been sent by Jessemine Cook to a Sahara employ to Ashu Chawla and have provided a very brief window of bank statements related to Global, Accurate, Fidelity and Gateway.

ADV CHASKALSON SC: And if you go to page 435 you will see what is part of Annexure N but unfortunately doesn't include Accurate which is the company that we
10 need to refer to today, but you will have the – you will have in due course we will get the I think it is just literally one page that we need to add here in relation to Accurate Investments. If we need to refer to it today Mr Holden has the document ...[intervenes]

CHAIRPERSON: I thought there was one reference to Accurate on page 435. Where you talk about page 435 where you are saying there is no reference to Accurate, well I see B/O Accurate.

ADV CHASKALSON SC: Oh yes, this is a transfer out of
20 Gateway into Accurate, I think it is out of Gateway into Accurate.

CHAIRPERSON: Okay, okay.

ADV CHASKALSON SC: But the Accurate – so the host company for this spreadsheet would I think be Gateway, what we are missing is the one for Accurate but we will add

it and to the extent that we have to refer to it today we can put it up on the screen.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And Mr Holden there is one last document in the Gupta Leaks that you refer to at page 206 of your statement, can you tell the Chair about that one?

MR HOLDEN: Certainly Chair if I may get the exact facts right before I put it into the record. There is an email that is sent from – well the Gupta Leaks reveal Chair that an
10 email sent from Veronica Radewaan from Oakbay email address to Ashu Chawla's Sahara email address on the 14th of February 2015.

CHAIRPERSON: And you are looking at what page?

MR HOLDEN: 206.

CHAIRPERSON: 206?

MR HOLDEN: Yes of the ...[intervenes]

CHAIRPERSON: Okay, alright. Yes continue.

MR HOLDEN: At paragraph 84 and 85 attached to the email was an Excel spreadsheet that was titled
20 IS12.02.15.xlsx, xlsx being the file format name for an Excel spreadsheet I think 12.02.15 is pretty explanatory, that means the 12th of May 2015.

ADV CHASKALSON SC: February, 12th of February.

MR HOLDEN: 12th of February 2015, apologies, and the IS I speculate although I cannot entirely confirm may have

referred to Income Sheet or Income Statement. The Excel spreadsheet itself which we may want to turn to ...[intervenes]

ADV CHASKALSON SC: In due course, you have actually extracted the relevant reference there, unfortunately this is another document that went missing from the annexures.

MR HOLDEN: What the spreadsheet indicated was that it was – at the top left corner of the spreadsheet it indicated there was an income statement. Sadly the document is
10 pretty difficult to decipher and I have to admit that I wasn't entirely comfortable relying on the figures therein without being able to fully understand exactly how they were derived but what was noticeable was that there was a single entry in the Excel spreadsheet which appears against an internal Gupta Enterprise account number of LCC001 and it reads:

“other income lieber”

And it then includes three different figures next to it of 11.888,956 and then 4.125 350.78million and then a third
20 figure. It appears from the – to the left of that there's also an A that is indicated there, if you look at the original spreadsheet which was at a different stage perhaps that A falls under a heading called company, so I think we can relatively safely assume that means accurate in relation to this particular income statement.

Sadly I am not entirely sure what denomination the figures are listed there refer to and also I am afraid I cannot tell from this statement the relationship between those three figures. I think one interpretation might be – and I must say this is very much a might be, is that the first figure of 11.888million may be a reflection of this is a total aggregate figure that had been paid in to Accurate Investments by Liebherr or was anticipated to be paid in by Liebherr either in Durham or in Dollars.

10 **ADV CHASKALSON SC:** But we can establish I mean that's some speculation but there is very clear evidence of what amounts were paid in definitely before this period.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: And have you got an aggregate figure?

MR HOLDEN: I do, I may need to consult a note very quickly if that is okay.

ADV CHASKALSON SC: You can do that.

20 **MR HOLDEN:** Apologies for taking time to locate that, the total aggregate figure that I am able to extract Chair is an amount of 3 232 430,88 dollars which was paid to Accurate Investments, I did a very simple calculation at today's spot exchange rate and that equals R49 381 200.

ADV CHASKALSON SC: And what we are now going to do is we are going to look at each one of those payments that

we can establish and we are also going to see what happened to that money. So can I ask you first of all to turn to page – let's start at page 206 at the bottom of 206 where you talk about the first payment.

MR HOLDEN: Certainly we see in total I am able to track five payment tranches from Liebherr over a period of time.

ADV CHASKALSON SC: Can I just emphasize those five do not include this sort of cryptic reference in the spreadsheet of 7 February 2015?

10 **MR HOLDEN:** That is correct.

ADV CHASKALSON SC: So whatever these five payments are in addition to whatever that may mean?

MR HOLDEN: That is correct. And the first tranche that we can trace was a amount of 905 088 and I do – that was paid on the 22nd of July 2013 into Accurate Investments US dollar account at Standard Chartered Bank. I can refer to the – I have prepared the entry in the Excel spreadsheet where I can refer to that, I have also prepared visualisation what happens to those particular payments.

20 **ADV CHASKALSON SC:** Well maybe let's start with the visualisations which are easy, the diagrams and I think this diagram is at page 1101. So Chair I ask that you go to 1101. It is 11 – yes it is 1101.

CHAIRPERSON: Yes, I have got it.

ADV CHASKALSON SC: And Mr Holden can you

...[intervenes]

CHAIRPERSON: I am sorry, I am sorry, 1101 is a diagram, oh no where I am is not 1101, it is 1011, let me try and find 1101. Yes I found it.

ADV CHASKALSON SC: And I think for these diagrams we should probably try and source the ledger references to each of these cash movements if you are able to do so now we may have to make some notes over lunch if there are any gaps but can you take the Chair through what you see
10 at 1101 or what you have produced at 1101.

MR HOLDEN: Certainly Chair. This is a – the visualisation follows very much the same format as the visualisations I used in relation to Estina, again the green box is the beginning point, the entry of funds, and then at the bottom we have red boxes which indicate the out points where those funds eventually emerge, and what we have here the first payment is made by Liebherr to Accurate's Standard Chartered bank account, US dollars are nominated, account on the 22nd of July 2013 and that is
20 for an amount of 905 000 dollars and 88 cents, I should note obviously that the timing of this payment is notable in relation to the timeline of the chronology of the award of the tender as this was still while the tender hadn't been announced. The tender is only announced the following year in February.

ADV CHASKALSON SC: And can I ask you, so that is 905 000 dollars and 88 cents and you have it in the Standard Chartered Bank. Can I ask you to go flow of funds bundle 5, and turn to page 354.

CHAIRPERSON: He is just trying to find the page for me, it was 354?

ADV CHASKALSON SC: It is 354 Chair and Chair if you can hang on to that file open roundabout that page because we are going to be flipping backwards and
10 forwards a few pages as we go through Liebherr, but can you identify this payment by Liebherr into the Standard Chartered account of Accurate, or first what are we looking at, at page 354.

MR HOLDEN: Certainly, this is the UAE ledger that was compiled by amongst others Sanjay Grover and sent to Tony Gupta.

ADV CHASKALSON SC: And can you find the Liebherr payment on that letter and maybe put it up on the screen?

MR HOLDEN: Certainly, so I have already identified it
20 here on screen, it is slightly easier to read than the very small text in the annexure, what we see here at row 157 is the primary party is Accurate Investments, the date is the 22nd of July 2013, and the counter party is Liebherr and if I was to scroll further to the right we see the input amount as a positive entry into the US Dollar Standard Chartered

Bank account of 905 000 and eighty eight.

ADV CHASKALSON SC: Thank you for that. Can I ask you, I referred, I mentioned when we were discussing Annexure N that we hadn't added the tab for Accurate Investments. Can I ask that, we will add that probably only at the end of the day but can I ask you to call up the tab for Accurate Investments on the correct, the full version of Annexure N.

MR HOLDEN: Certainly Chair I will do so in short order.

10 **ADV CHASKALSON SC:** And just to – while you are doing that, if you can multitask if you can just remind the Chair what Annexure N was or is.

MR HOLDEN: Apologies Chair, I did extract it this morning and sent it to my evidence leader and for some reason I can't seem to locate it now.

ADV CHASKALSON SC: Maybe we will come back to this one after the lunch break and ...[intervenes]

MR HOLDEN: Yes if we could that would be helpful.

20 **ADV CHASKALSON SC:** Okay let us go back to the diagram of where this money went.

CHAIRPERSON: Are we now moving to the other bundle?

ADV CHASKALSON SC: Sorry Chair we are, Bundle 6 and ...[intervenes]

CHAIRPERSON: But you said I must keep this other one close.

ADV CHASKALSON SC: Keep that one close because each time we are going to want to authenticate the payments we are discussing we are going to have to refer to those ledgers, and if we go to 1101 – oh you are at 1101. The diagram ...[indistinct]

CHAIRPERSON: That is 1101 of ...[intervenes]

ADV CHASKALSON SC: Of Bundle 6 Chair yes.

CHAIRPERSON: I am always thinking about the transcript, ja okay.

10 **ADV CHASKALSON SC:** And can you take the Chair through this process that we see at 1101?

MR HOLDEN: Certainly Chair as I put up on the screen after the 905 000 has been deposited into Accurate Standard Charter Bank account we have three transfers out, the first transfer is made on the same day, it is received from Liebherr, that is an amount of 700 000 dollars and that is paid from Accurate Standard Charter Bank account into Global Corporations Standard Charter Bank account in US Dollar denomination and it is paid on
20 the 22nd of July 2013. There is an amount of 130 000 dollars that is transferred on the 23rd of July 2013, and that is paid out to Global Corporation Standard Charter Bank US dollar account and then a final payment of 60 000 dollars also on the 23rd of July 2013, made form Accurate's Standard Chartered Bank into Global Standard Bank

account.

ADV CHASKALSON SC: Can I ask that we then go back to 354 of flow of funds bundle 5 just to identify those three transactions. And maybe Chair – ja sorry, ja I think we are going to have to just move backwards and forwards between the two bundles.

CHAIRPERSON: I thought I had kept that other page, as you have said on Bundle 5 but you can just remind me which page we are going to on Bundle 5?

10 **ADV CHASKALSON SC:** 354 Chair.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: So Mr Holden can you take the Chair to those three transactions you have just described, the 700 000, the 130 000 and the 60 000.

MR HOLDEN: Certainly Chair so as I brought up the screen here, it might be highlighted on your Excel spreadsheet in red. The first transaction takes place at Eurogrow 139, the first party is Accurate, the primary party the date is the 22nd of July 2013 and the reference here is
20 GCL/SCD which stands for Global Corporation Limited Standard Chartered Bank and if we are to scroll further to the right here, we see a negli – R700 000 dollars in brackets which means it is paid out.

ADV CHASKALSON SC: And the 130 and the 60?

MR HOLDEN: That occurred, the 130 000 you can find at

row 140 the primary partner, the primary company, apologies, is accurate. The date is the 23rd of July 2013, and the counterparty is Global Corporation LLC and it is the right year, we the US Dollar under the US Dollar Standard Chartered Bank row we have 130 000 Dollars paid out which is why it is in brackets and as you can see below this is the counterparty record in the double entry bookkeeping which will show that same transaction but from Global's perspective.

10 **ADV CHASKALSON SC:** I think we are on different documents, 354 is the – 354 is the version of the ledgers that's been organised by company.

MR HOLDEN: No that is not correct. So in my ...[indistinct] page 354 is ledger 1.2, Annexure number page 10.

ADV CHASKALSON SC: Yes.

MR HOLDEN: And the prescription, the transactions I have just described ...[intervenes]

ADV CHASKALSON SC: So if you look at the left of that
20 column all of the companies are accurate? So you are not going to see the double entry.

MR HOLDEN: You are quite right.

ADV CHASKALSON SC: Let's do it on this document because where I have got my references we can go to the double entry reference after lunch. So you have dealt with

130 000 and the 60 000.

MR HOLDEN: So there was a 60 000, we can see here on my spreadsheet as row 142, the date is the 23rd of July 2013, the counterparty is again Global Corporation LLC and if we scroll over to the right we see 60 000 in brackets, which is a negative ...[indistinct] so a payment out, and then a payment in to the counterparty transaction of 60 000 that is they paid to – from Global’s perspective.

It might also be worthwhile to mention that in – look at
10 Annexure O, the original Estina bundle, the spreadsheet that I created showing running totals if we were to look at that we would see that prior to the deposit by Liebherr into Accurate Investments there is an incredibly small balance, such that these transfers could only have been funded by the payment from Liebherr.

ADV CHASKALSON SC: That would be Annexure A on the funds bundle 5, if you can do that relatively easily will you take us there, I don’t have a reference, so I am going to be dependent on you there.

20 **MR HOLDEN:** So I have produced that up on screen here and I realised that I have prepared this morning’s evidence on the basis of this particular spreadsheet, which is why I highlighted certain things.

ADV CHASKALSON SC: Well maybe if I can give you the reference, because I have now found it, it is 113, 113 Chair

of Flow-funds Bundle 5.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And can you take us to the point that you want to make about what the Liebherr payment does to the Accurate balance.

MR HOLDEN: Certainly, so as we see on here I acknowledge that Annexure A is very difficult to read on paper, but if we were to look at the screen and scroll over to the right here we see prior to the deposit that is made
10 by Liebherr there is a balance of 815 dollars and twenty one in that account and that increases the payment from Liebherr the increases the balance to just over 905 000 and that then finances, that 700 – so that 900 000 is then dissipated by the 700 000 dollar transaction on the cell I have highlighted, the 130 000 dollar transaction and the 60 000 dollar transaction you can see after those amounts have been dissipated an amount of only 15 000 dollars is left in the Standard Charter Bank account for Accurate Investments.

20 **ADV CHASKALSON SC:** Thank you Mr Holden, can you take us to the money when it lands in Global?

MR HOLDEN: Certainly Chair. So the first stream and now referring back to the diagram.

CHAIRPERSON: Sorry what page is that?

ADV CHASKALSON SC: 1101. It make – Chair what is

probably going to be the simplest way of dealing with this is for you to take out 1101.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: Which will always stay the same.

CHAIRPERSON: Oh okay.

ADV CHASKALSON SC: And then maybe annotate or again do not bother to annotate because we will – we will take you through these references.

CHAIRPERSON: Yes.

10 **ADV CHASKALSON SC:** Because these are important references to go through.

CHAIRPERSON: 101?

ADV CHASKALSON SC: Transaction by transaction. 1101 – 1101.

CHAIRPERSON: 1101.

ADV CHASKALSON SC: 1101. But again just like we promised yesterday we will get Estina diagrams that are fully reference we will do the same with these.

CHAIRPERSON: Okay.

20 **ADV CHASKALSON SC:** Accurate diagrams.

CHAIRPERSON: Okay. 1101 is on the other bundle?

ADV CHASKALSON SC: Bundle 6 – 6.

CHAIRPERSON: Ja.

ADV CHASKALSON SC: And then if you keep 5 open while you have 1101 as a separate page we will be able to track

each step on 1101 through the ledgers in 5.

CHAIRPERSON: Okay. This particular lever arch is quite full so if you want to take out a page that is towards the end it is quite difficult. Now in page – in Bundle 5 what was it 534 that you suggested I should keep open more?

ADV CHASKALSON SC: I think Mr Holden and I made our notes on separate documents. I think he is going to be here around about page 114 for the consolidated annexure A.

CHAIRPERSON: Okay. So that is the page I should...

10 **ADV CHASKALSON SC**: 114 Chair yes.

CHAIRPERSON: 114 okay. Yes okay alright. Okay so that particular one we said is 1103 that one on the screen?

MR HOLDEN: It is 1101 as far as I recall.

CHAIRPERSON: 1101 okay. Okay.

ADV CHASKALSON SC: And Chair in fact it is going to be 115 not 114 of Bundle 5.

CHAIRPERSON: 115.

ADV CHASKALSON SC: 115.

20 **CHAIRPERSON**: Okay. Okay I have got 115. Okay but right now we are going onto that one or we are moving away from that one? We are going to that one.

ADV CHASKALSON SC: Well we are going to see each transaction on this diagram as it reflects in the ledger on page 115.

CHAIRPERSON: Yes okay. Okay. But that diagram is on

what page?

ADV CHASKALSON SC: That diagram is the loose page that you have 1101.

CHAIRPERSON: Oh the loose – oh okay alright.

ADV CHASKALSON SC: From Bundle 6 not from Bundle 5.

CHAIRPERSON: Yes okay I have got it. Ja. Okay.

ADV CHASKALSON SC: So Mr Holden we had seen that the 130 000 and 70 000 and 60 000 had moved from Accurate to Gateway. Can we then – sorry Accurate to Global. Can we
10 see what happens to them in the ledgers – well first can we pick that up in the ledgers so that we can see the other side of the transaction where in the books of Global as it were?

MR HOLDEN: The – you would like to look at the counterpart transactions?

ADV CHASKALSON SC: The counterpart transactions because it will also if we looking at Global's books show us where the money moves out there after.

CHAIRPERSON: Thank you can I ask you to remind me of the date.

20 **ADV CHASKALSON SC:** 23 July 2013.

MR HOLDEN: So at – at annexure A we have a number of different transactions reflected here. So the first one is at row 256 – the primary party is Global, the date is the 22 July 2013, the counterparty in Accurate or Accurate Investments and if we scroll to the right here we see the R700 000.00

entry - \$700 000.00 apologies entering into the US Dollar account of Standard Chartered Bank for Global.

ADV CHASKALSON SC: And the 130 and 60 while we are there are just two below.

MR HOLDEN: That is correct. So we have 130 over here and 60 over there as the counterparty transactions reflecting they have been paid into the Global account.

ADV CHASKALSON SC: And then what happens to that money once it is in Global? I mean maybe you first tell us
10 what it does to the balance of Global?

MR HOLDEN: Certainly. It vastly increases the balance in Global prior to the deposit of \$700 000.00 the bank account had \$24 948.00 within it. So the deposit of \$700 000.00 increased the balance to \$724 948.68.

ADV CHASKALSON SC: And then the 130 and the – so you have identified 130 and the 60 can you go back to your diagram of the tranche and show where that money goes from Global on the diagram and then we will pick it up in the ledger?

20 **MR HOLDEN:** Certainly Chair. The first stream is paid out on the 22 July 2013 and it runs to the left of Global Standard Chartered Banks box and that is \$499 500.00 and if you scroll down to the bottom that is paid to Sahara in South Africa. And I very quickly bring up the counterparty the reference in the spread sheet as well.

ADV CHASKALSON SC: Yes if you would?

MR HOLDEN: And then as we can see here on spread sheet at row 257 Global is the primary partner, the date, Sahara as the counterparty and the amount being taken out of Global of \$499 500.00.

ADV CHASKALSON SC: So just to take a step back what we are seeing is an amount paid into a Gupta Company in Dubai as a self-confessed payment in respect of the Transnet trains con – cranes contract which very quickly of
10 which half a million dollars very quickly is transferred to Sahara Computers.

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: So let us look at the next payment out but let us go to the diagram first so that we – we can plot it on the diagram.

MR HOLDEN: Certainly. Then we have a payment of \$100 000.00 that is made on the 23 July 2013 and that is paid from Global Standard Chartered Bank US Dollar account into Gateway Standard Chartered Bank US Dollar
20 account.

ADV CHASKALSON SC: And can we see that on the ledger at page 115?

MR HOLDEN: So we see here at row 261 – have I zoomed in enough for you Chair?

CHAIRPERSON: Well I can see there but not on –

MR HOLDEN: Okay.

CHAIRPERSON: Not on ...

MR HOLDEN: As long as it is legible on the screen.

CHAIRPERSON: Ja. No, no I can see that ja.

MR HOLDEN: So I am afraid I have just lost my place there.

So at row 261 we can see the primary party is Global, the date is the 23 July 2013, the counterparty is Gateway SCB which is short for Standard Chartered Bank and then we have a payment out here of \$100 000.00 from Global
10 Standard Chartered Bank account and to pre-empt my evidence leader I will then scroll up to the Gateway account and identify the same transaction which we can see here at row 110 primary party as Gateway the date is the 23 July 2013 and the counterparty is Global Corporation LLC and that reflects a \$100 000.00 deposit into Gateway Standard Chartered Bank accounts which as we see from the column to the right increases the balance in Gateway Standard Chartered Bank account from \$372.39 to \$100 372.39.

ADV CHASKALSON SC: Chair for referencing purposes but
20 you will get that later that entry is on page 113 the corresponding entry that Mr Holden has just taken us to. If we can go back to the diagram again.

MR HOLDEN: Certainly. So the day after that amount is paid into the Gateway Standard Chartered Bank account of that amount \$93 378.61 is paid on the 24 July 2013 and that is

paid to Star Engineering which again was the agent that provided the dairy products – the dairy equipment that was used on the Estina farm from India.

ADV CHASKALSON SC: And again if I might stop here. What we are seeing is proceeds derived from a Transnet contract being used to fund some of the very few dairy expenses that actually were incurred in relation to the Estina Dairy Product – Project.

MR HOLDEN: That is correct Chair.

10 **ADV CHASKALSON SC:** Can we go to the next entry on the diagram, the next cash flow on the diagram?

MR HOLDEN: Certainly. So returning further up the diagram heading out to the right from Global Standard Chartered Banks accounts. We have a transfer on the 23 July 2013 of 620 000.00 Durham which is equivalent to \$168 845.32 and that is now paid into Global Standard Chartered Banks – Global's Standard Chartered Bank Durham denominated accounts over here.

20 **ADV CHASKALSON SC:** And can you find that on the ledgers? Chair the reference will be page – oh no – I am – yes the reference should be page 115 Chair.

MR HOLDEN: I am afraid I have [00:12:13] myself.

ADV CHASKALSON SC: You need to go two down.

MR HOLDEN: What is the date?

ADV CHASKALSON SC: If you look – if you look it is

Standard Chartered AED.

MR HOLDEN: Oh that is correct. Thank you

ADV CHASKALSON SC: That is where you want to find that.

MR HOLDEN: Thank you. So at row 263 we can see the primary partner – primary companies Global, the date is the 23 July 2013. The particulars are SCBAED which is short for Standard Chartered Bank UAE Durham and if you scroll further to the right here we see 620 000 Durham entering
10 into the Standard Chartered Bank Durham denominated account for Global.

ADV CHASKALSON SC: And if we go back to the diagram to see the next money flow.

MR HOLDEN: From there that amount is withdrawn entirely in cash. So we have another cash fire break at this point. So 620 000 Durham is transferred on the 23 July 2013 – sorry it is withdrawn in cash on that date.

ADV CHASKALSON SC: And maybe go back to your ledger and go down a couple of lines and you will see that 620 000
20 cash withdrawal.

MR HOLDEN: Certainly. So at row 264 of my annexure you will see again the primary partner – the primary company is Global, the date is the 23 July 2013 and it indicates cash withdrawal slightly misspelt and you can it there a minus amount – a negative integer of [620 000] Durham from the

Standard Chartered Bank account which is then reflected as a 620 000 Durham credit in cash going to Global.

ADV CHASKALSON SC: Can we go back to the diagram and see the – before we see where the cash goes I think we have to track one further payment from I think – I may not have kept – go up a line. I think you have been travelling down one line but not the other.

MR HOLDEN: I have been travelling down this line here.

ADV CHASKALSON SC: Yes. But can we then travel down
10 the line on the far right.

MR HOLDEN: Absolutely. It might actually make sense at this point because the cash...

ADV CHASKALSON SC: Cash is going to co-mingle.

MR HOLDEN: The cash then goes out there. This amount the 620 000 goes out there.

ADV CHASKALSON SC: Okay can you take us to that?

MR HOLDEN: Certainly. So then what we see is on the 23 July 2013 we see that cash is then given to Vikus and it says Vikus via JJT which is quite an interesting entry. Vikus I
20 assume again was Vikus Chaturvedi who was the Gupta Enterprise employee in India and JJT was the – is wholly owned subsidiary of the Worlds Window Group. So what we seeing here is a – effectively a cash deposit that is being paid to Vikus Chaturvedi via one of the Gupta Enterprises partners and money laundering JJT.

ADV CHASKALSON SC: And can I just stop there and maybe link this to the Hawala ledger that we discussed yesterday. How will this sort of transaction be covered in the Hawala ledger?

MR HOLDEN: Certainly Chair. The Hawals ledger would reflect – it would have a – on its left most column it would have the individual to whom the money is being paid or the account that it is being paid from and it would be reflected either as a negative or a positive integer. In this case it
10 most likely be represented in – when it was coming into JJT as a negative integer because this is a Hawala ledger that has been drafted from the point of view of the Worlds Window Group and then when it is paid out it is paid out as a positive integer.

ADV CHASKALSON SC: Thanks. Unfortunately I do not have my reference to the Hawala ledger to hand but we will probably find that payment in the Hawala ledger. Can you then find that – let us see if we can – well let me find the Hawala ledger and we will come back to = to that after lunch
20 which is in – oh there you have it. So this would be in your annexure O which is the combined daily or daily ledgers or no, no. Is that – is that - that was one of the tabs on the spread sheet that was sent to Tony Gupta?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Okay.

MR HOLDEN: So this is – this is a – the cash sheet that appears in that – in the ledger that is sent to Tony Gupta and you can see here on the 23 July we see a matching amount and it says here JJT and then the amount here is 616 560.00 Durham and then the description of it or the explanation for it is Vikus. So clearly it is been funds being transferred via JJT to Vikus.

ADV CHASKALSON SC: Can I – Chair can ask you – I have now found the reference to that. That is Flow of Funds
10 Bundle 5 page 374 and there we will see the relevant payment.

CHAIRPERSON: 374. I have got 374.

ADV CHASKALSON SC: Right there. No I have got the wrong document Chair. I am losing track of all of these ledgers I will – we will find that.

CHAIRPERSON: Yes okay.

ADV CHASKALSON SC: And it will – we will reference it and come back – I think Mr Holden and I probably need a lunch break too.

20 [Speaking over one another].

CHAIRPERSON: Mr Holden has been feeding us all these figures.

ADV CHASKALSON SC: I was more or less in control up until about ten minutes ago Chair.

CHAIRPERSON: We are two minutes – three minutes to one

o'clock.

ADV CHASKALSON SC: I think in fact it would be two or three minutes usefully spent.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: If Mr Holden and I can coordinate our references so that we move quicker after lunch.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: If we take the lunch adjournment then Chair.

10 **CHAIRPERSON:** Okay no that is fine. We will adjourn for lunch and resume at two and maybe Mr Chaskalson you could see me in chambers immediately after the adjournment..

ADV CHASKALSON SC: Certainly Chair.

CHAIRPERSON: Yes we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Okay let us continue.

20 **ADV CHASKALSON SC:** Thank you Chair. Mr Holden, I undertook to avert to the Chair with references in relation to the diagram at page 1101. I see you have it up there. I was going to ask you to put it up there. Chair, we have now done that referencing exercise.

CHAIRPERSON: H'm, h'm.

ADV CHASKALSON SC: And we were coming back to you with references on the right hand side of that diagram. So starting with the 168 845,32 Dollars. It becomes 620 000 Dirham that goes into Global Standard Chartered. It is the on – it is the first tranche coming down on the left. Sorry. Not on the left, on the right.

CHAIRPERSON: On the right, ja.

ADV CHASKALSON SC: On the right. So it is the left-hand arrow down on the right.

10 **CHAIRPERSON:** Yes, into Global ...[intervenes]

ADV CHASKALSON SC: Global Standard Chartered. That is on page 349.

CHAIRPERSON: Page three...[intervenes]

ADV CHASKALSON SC: And all of these references will Flow Funds Bundle 5. The – immediately to the right, there is 104 015 740 Dollars also coming down into Global Standard Chartered in Dirham. That is 345.

CHAIRPERSON: Oh, that is the page.

ADV CHASKALSON SC: Same page, indeed.

20 **CHAIRPERSON:** That is in relation to...

ADV CHASKALSON SC: So Chair, I think Mr Holden will just highlight it on the screen.

CHAIRPERSON: H'm.

ADV CHASKALSON SC: So that is the 115 730 Dollars ...[intervenes]

CHAIRPERSON: Oh.

ADV CHASKALSON SC: ...converted into 425 000 Dirham.

CHAIRPERSON: Okay. And that is page?

ADV CHASKALSON SC: 345.

CHAIRPERSON: 345.

ADV CHASKALSON SC: All of these are in Bundle 5.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Not Bundle 6.

CHAIRPERSON: H'm.

10 **ADV CHASKALSON SC**: Coming down from that rectangle, there are two lines both of which we see at page 349.

CHAIRPERSON: H'm.

ADV CHASKALSON SC: And then the 620 425 that is turned into cash, leads into a 425 000 cash deposit into Global in the National Bank of Abu-Dhabi. That is at 349. And...[intervenes]

CHAIRPERSON: Hang on one second. Let me see on the screen. That is the one. Okay. And that is page 349.

ADV CHASKALSON SC: 394.

20 **CHAIRPERSON**: 349. Okay.

ADV CHASKALSON SC: And the other movement of the cash was out to the right and down to Vikus Fire JJT. And that is at 345.

CHAIRPERSON: H'm?

ADV CHASKALSON SC: And also 342. It is picked up

twice.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: And the last transaction on this page that we have not yet got to, was the payment coming down from the Global National Bank of Abu-Dhabi, a payment of 475 620 Dirham into an entity called Whizz Craft.

CHAIRPERSON: H'm?

ADV CHASKALSON SC: That is at 349.

CHAIRPERSON: H'm.

10 **ADV CHASKALSON SC**: And Mr Holden, can you explain who Whizz Craft are or were?

MR HOLDEN: Certainly. Chair, Whizz Craft are an entertainment services company that provided the Gupta enterprises with dances and other entertainment for the Sun City wedding.

CHAIRPERSON: H'm. Okay.

ADV CHASKALSON SC: So then... Well, this payment in particular. We have... Well, it is one of several payments. Maybe I can... If I can ask you to go to Bundle 6, page 467.

20 Bundle 6.

CHAIRPERSON: Page 467?

ADV CHASKALSON SC: That is correct. And can you tell the Chair what we see at Bundle 6? Oh, sorry 467.

MR HOLDEN: Certainly Chair. What we have here is an email that was extracted from the Gupta leak records. It was

attached to as Annexure Q to my report. It is an email that is sent from Johan Schalkwyk at johan@vdmass.co.za(?). Sent on Wednesday, August the 14th, 2013 to Ashu Chawla and also CC'd to another VD Mass email address, denise@vdmass.co.za with the subject Whizz Craft. And the subject – the content of the email reads:

“Dear Mr Ashu. Attached hereto the amended draft as requested. Yours faithfully, Johan Schalkwyk.”

ADV CHASKALSON SC: And if you go over the page, is
10 this the attachment that was linked to the email?

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: Page 468.

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: And I do not want you to read this whole document but can you explain to the Chair what it is?

MR HOLDEN: Certainly. It is a letter that has been drafted by Johan Schalkwyk in relation to a dispute around payment between the Gupta enterprise and Whizz Craft. There are disputes about the terms under which payments had been
20 made for the entertainment services provided.

ADV CHASKALSON SC: And can I ask you to go to page 469?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And there the writer lists four payments that were made to Whizz Craft in settlement of

their invoice. How does that link to the diagram that we are looking at?

MR HOLDEN: So the fourth payment that is listed there of 129 600 US Dollars is made on the 24th of July 2013. That is the same date as reflected in the ledgers as being paid from Global's National Bank of Abu-Dhabi account into Whizz Craft's account of 475 000 Dirham. And I did a calculation on the exchange rate at the time and that amount of Dirham almost exactly 129 600 US Dollars.

10 **ADV CHASKALSON SC**: Thank you. That concludes the first payment. If we turn the page – if we go to the next diagram. And Chair, that is at Bundle 6, page 1102. It is in fact on the back of the page that you may have taken out.

CHAIRPERSON: The page number?

ADV CHASKALSON SC: 1102 Chair.

CHAIRPERSON: Oh, okay ja. That is the one I took out, ja.

ADV CHASKALSON SC: And can you take the Chair through this diagram Mr Holden?

MR HOLDEN: Certainly. Chair, we have – this diagram
20 begins – it is a relatively straightforward one. Again, with the green box. It starts with a payment of 212 006,01 Dollars that is transferred in on the 17th of February 2014. And it is a payment that is made into Accurate Mashreq Bank account.

ADV CHASKALSON SC: What was significant about

17 February 2014?

MR HOLDEN: Chair, on the 17th of February 2014, that was the same day that Liebherr(?) announced that they had won the contract from Transnet.

ADV CHASKALSON SC: And what happens to this 212 006,01 Dollars once it lands in the Accurate Mashreq account?

MR HOLDEN: Certainly, Chair. What happens in this instance is that it is comingled with funds from other
10 sources. Other sources that I have not entirely been able to determine the origin thereof. But effectively, it moves through Gupta enterprise companies, like Unlimited Electronic Computer.

Eventually, on the 25th of February 2014, 450 000 Dollars is paid into Accurate Mashreq's account where it joined the 212 006,01 Dollars from Liebherr.

And then on the same day with the account balance increased sufficiently, there is a payment of 599 327 Dollars on the 25th of February 2014 to Linkway Trading.

20 **ADV CHASKALSON SC**: So once again, what we have is a payment made by Liebherr in respect of a Transnet contract that ends up in the Gupta company in South Africa, namely Linkwe(?).

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: Chair, I am – we are not going

with references on these diagrams. We will provide you with a fully referenced set of diagrams.

CHAIRPERSON: Okay.

ADV CHASKALSON SC: The third diagram, page 1103. And Chair, for that, you will have to go back to Bundle 6.

CHAIRPERSON: Yes, I have got it.

ADV CHASKALSON SC: Mr Holden, can you take us through that diagram?

MR HOLDEN: Certainly, Chair. Again, it begins with the
10 green go-box at the top, indicating Liebherr. On the
15th of April 2014, Liebherr transfers an amount of
371 105,83 Dollars.

CHAIRPERSON: I am sorry. I am sorry. I am sorry.
Mr Chaskalson, did you say I must go to page... Oh, you
said 1103?

ADV CHASKALSON SC: 1103 Chair.

CHAIRPERSON: Ja. I think maybe it has been a long day.
I keep on sometimes going to attend something when you
say 11. So. [laughs] Okay let me... Yes, I have got it.

20 **ADV CHASKALSON SC**: And Mr Holden, can you take us
through this one?

MR HOLDEN: Certainly. So as I was saying. The first
amount Chair begins with a payment from Liebherr into
Accurate Investments' Mashreq Bank, US Dollar account and
the total of that payment is 371 105,83 Dollars and that is

transferred on the 15th of April 2014.

Just shy of two weeks later, 13-days later on the 28th of April 2014, there is an amount of 375 000 Dollars that is transferred from Accurate Mashreq bank account into Fidelity Enterprises, Mashreq bank account.

Obviously, the additional – I think it is 3900 Dollars making that payment, were funds already resting in the Accurate account at that point. And finally to complete this.

On the 29th of April 2014, an amount of 400 000 Dollars
10 is transferred from Fidelity Mashreq Bank account into
Oakbay's accounts of which 371 000 Dollars emanated from
Liebherr.

ADV CHASKALSON SC: So once again, a payment in respect of a Transnet trains contract is made offshore and lands in a South African Gupta Enterprise company.

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: Can we go to 1104 and the fourth payment?

MR HOLDEN: [No audible reply]

20 **ADV CHASKALSON SC:** Can you start with the money that comes in from Liebherr?

MR HOLDEN: Certainly. So the way I have organised this particular payment. Rather than a payment, it is a payment tranche. And the reason I have organised it in this way is because all of these funds are used to the same purpose,

eventually.

So it begins with Chair at the top right hand corner. Liebherr makes three different transfers into Accurate's Mashreq US Dollar account on the 7th of May 2014. That is for 405 598,52.

On the 19th of May 2014, 402 879,34 Dollars is paid into Accurate Mashreq. And then finally on the 26th of May 2014, 296 890.30 Dollars is paid in Accurate's Mashreq account.

ADV CHASKALSON SC: And can you give the Chair the
10 sum of those three payments? You have used it low down in
your diagram .

MR HOLDEN: Yes. [laughs] I was hoping you will not ask me to do it in my head. The total amounts of those payments is 1 105 368,16 Dollars.

ADV CHASKALSON SC: And that – those payments into Accurate's Mashreq account are comingled with other payments. Can you identify or can you describe the movement of the other payments that come into Accurate?

MR HOLDEN: Certainly Chair. We have two streams. On
20 the top left here, we have a payment of roughly 4.5 million Dollars that is paid into an account of Reliable.

And Reliable is another Gupta enterprise company. Mashreq Bank, US Dollar account. JJT Fourth Exum.

It is a little bit difficult to discern exactly what company they refer to but we can very safely assume it is JJ Trading

or one of its subsidiaries.

ADV CHASKALSON SC: And for where did most of JJ Trading's payments into the Gupta companies derive from?

MR HOLDEN: They derived from payments relate to the Transnet contracts.

ADV CHASKALSON SC: Sorry, which Transnet contracts?

MR HOLDEN: It is the, 1064 contract. And...

ADV CHASKALSON SC: It is the locomotives contract and I think there is another contract that it may be as well.

10 **MR HOLDEN:** I would rather not say right now because there is a difference between JJT and Central General Trading. And I would just want to double check exactly which...

ADV CHASKALSON SC: Sure. At any rate. We do know that most of the money that JJT receives and transfers into the Guptas comes from the locomotives contract.

MR HOLDEN: That is contract.

ADV CHASKALSON SC: From Reliable, Mashreq. Where does that money go?

20 **MR HOLDEN:** On the 12th of May 2014, 2.5 million Dollars is transferred into Global's Mashreq US Dollar account. And then thereafter, on the 26th of May, 2.2 million Dollars is transferred from the Global Mashreq US Dollar account into Accurate Mashreq US Dollar account.

ADV CHASKALSON SC: And then if we can deal with the

parallel's stream of funds that is going to end up Accurate Mashreq account.

MR HOLDEN: Certainly. I have indicated here mix sources including JJT Key Centric on the far left here. When I was compiling and I was trying to chase these funds, there were quite a large number of payments that are made into Global Mashreq's Dirham account from various different sources of which JJT Centric is – was certainly the largest one.

I have always interpreted JJT Centric to potentially refer
10 to Centric General Trading which was the sister company of
JJ Trading and which always received funds from the
Transnet locomotive contracts.

So those are the sources over the course of four days between the 11th of May 2014 and the 15th of May 2014 pay 8.2 million Dirham into Global Mashreq's Bank Dirham based account.

Those comingled are then transferred on the
19th of May 2014 at an amount of 5 000 336 Dirham into
Accurate's Mashreq Dirham based account. And then
20 transferred in two payments over to Accurate Mashreq's US
Dollar account.

The first payment was on the 27th of May 2014 equivalent to 1.7 million Dirham which is 462 710,94 Dollars. And on the following day on the 28th of May, we have 4 545 800 Dirham which is equivalent to 1 237 289,06

Dollars.

ADV CHASKALSON SC: And then what happens to these accumulated funds in Accurate Mashreq's account?

MR HOLDEN: Certainly Chair. As soon as these funds are comingled into the Accurate account which effectively acts as a piggybank to facilitate one further transfer. On the 28th of May 2014, 5 million Dollars is paid from Liebherr...

Oh, sorry. From Accurate Mashreq's account into the account of Brookfield Consultants which is a company based
10 in the US, which as I have noted before, of which
1 105 386,16 Dollars emanates from Liebherr.

ADV CHASKALSON SC: Can I ask you now to turn to page 213 of Bundle 6 where you describe who Brookfield are.

MR HOLDEN: [No audible reply]

CHAIRPERSON: 213?

ADV CHASKALSON SC: 213 at paragraph 114.

MR HOLDEN: Certainly Chair. The tax record filed in the US state of Texas...[intervenes]

CHAIRPERSON: Just hang on one second.

20 **MR HOLDEN:** Pardon me.

CHAIRPERSON: Hold on, Mr Holden. Let me get there.

MR HOLDEN: [No audible reply]

CHAIRPERSON: Yes, I have found it. Yes?

MR HOLDEN: Thank you Chair. The tax records that are filed was in the US state of Texas. Show that the directors

of – or the individuals who signed tax return mentioned on behalf of Brookfield in the US are Ashish and Amal Gupta who are relatives of the Gupta brothers.

I do indicate here that there is an Annexure S of that tax. That is all of the annexures that appears not to be included in the bundle which we will need to resolve over the weekend.

ADV CHASKALSON SC: Thank you. But can I ask you to go to Annexure T which is an email in relation to this payment? It is at page 477.

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And can you describe to the Chair what this annexure is?

MR HOLDEN: Certainly Chair. What we have here is an email from Tony or Rajesh Gupta from his Sahara account that is sent on Wednesday the 7th of May 2014.

And it is sent to Ronica Ragavan's Oakbay email address and to AJ Gupta's – I think it is a Sahara address. And the subject is: Forward info.

20 And the body of the text indicates that Tony Gupta was forwarding on a message that have originally been sent from Ramesh Gupta at the address rgupta6666@yahoo.com which he had originally sent two days before on the 5th of May to Tony Gupta and to Ashu Chawla.

And what it is provides is a – a bunch of information for

procure consultants so that the amounts can be transferred across to the consultants in the US.

ADV CHASKALSON SC: And can I ask you to go to the bottom of the page where you will see the email that Ramesh Gupta... That Tony emailed from Ramesh Gupta which is how he describes the money that is going to be paid.

MR HOLDEN: Certainly. So preceding that email chain. Ramesh Gupta writes to an individual by the name of Ken Haas. I am afraid I have not been able to identify who
10 exactly that it is. But the email reads:

“Ken, please send information for the money transfer from South Africa to Brookfield, same entity as it went from which should include bank details and transfer instructions.”

ADV CHASKALSON SC: So the Gupta relative in America understood that this money that he was going to receive came from South Africa. And of course, he was right because it came ultimately from Transnet.

MR HOLDEN: That is correct.

20 **ADV CHASKALSON SC:** So even though this... Well, this is a payment made in respect of a Transnet contract but ends up not in South Africa but at a Gupta relative in the United States.

MR HOLDEN: Yes.

ADV CHASKALSON SC: Can we go to page 1105 where we

look at the fifth tranche? And can you describe to the Chair what you see there?

MR HOLDEN: Certainly Chair. Sadly, this was the final tranche in relation to Liebherr that ...[intervenes]

CHAIRPERSON: I am sorry. You said we should go to what page Mr Chaskalson?

ADV CHASKALSON SC: Chair, it is 1105.

CHAIRPERSON: Oh, okay.

ADV CHASKALSON SC: Bundle 6.

10 **CHAIRPERSON**: H'm, h'm. Yes, thank you.

ADV CHASKALSON SC: [No audible reply]

CHAIRPERSON: Yes, I am ready.

ADV CHASKALSON SC: Mr Holden, can you describe what you see there?

MR HOLDEN: Certainly Chair. This is unfortunately a tranche that I am not able to complete the tracing on as at this date, the Gupta leak records, the ledgers go dark for us. We have no longer...

20 We have no idea where the funds go to from there, although it is a begin – a small amount of the tracing. So it begins on the 9th of October 2014.

Flowing from Liebherr into Accurate Standard Chartered bank account in US Dollars for 368 110. And that amount is dissipated pretty quickly. On the... Apologies, I am getting ahead of myself here.

The second transfer in from Liebherr is made on the 1st of December 2014 and that was for 278 840 Dollars and it is again paid into Accurate Standard Chartered bank account.

And then, this essentially splits into two streams that we can trace. First, coming off the left of Accurate Standard Chartered bank account. We have two transfers.

One made on the 9th of December 2014 for 20 000 Dollars and that goes into Fidelity Enterprises' Mashreq
10 Bank US Dollar account.

And on the 10th of December, so the following day, a further 20 000 Dollars is transferred from Accurate Standard Chartered bank account into Fidelity Enterprises' Mashreq Bank US Dollar account. And then ...[intervenes]

CHAIRPERSON: So the one... There are two which were effected on the same date. Is that right?

MR HOLDEN: There is two... There is one that is made on the 9th Chair and one that is made on the 10th both for 20 000.

20 **CHAIRPERSON:** Oh, I thought you had talked about two which were made on the 10th and I thought you had said 20 000 in regard to – what seems to be 200 000.

MR HOLDEN: Okay. [laughs]

CHAIRPERSON: Ja. You were not there yet.

MR HOLDEN: Yes, I am not there yet.

CHAIRPERSON: Ja, okay.

MR HOLDEN: I am still – there I am still busy addressing the left-hand side.

CHAIRPERSON: Okay.

MR HOLDEN: And then returning to the right-hand side. As the Chair has correctly identified on the 10th of December 2014, 200 000 is transferred from Accurate Standard Chartered bank account into Global's Bank of Baroda US Dollar account where it comingles with other
10 funds

And on the 11th of December 2014, 243 000 is transferred from Global's Bank of Baroda US Dollar account into Fidelity Bank of Baroda US Dollar account.

And unfortunately, at that point, our records go dark and we cannot trace it any further.

ADV CHASKALSON SC: Now, we have seen five tranches of payment from Liebherr. They all end up or either end up in Gupta companies in South Africa or in the United States and the last one has not left the Gupta company in Dubai at
20 the point of which we lose sight of it. Can you tell the Chair what other activity, if any, was taking place in the Accurate account over these periods?

MR HOLDEN: Certainly Chair. The Accurate account is relatively inactive. What we do see is a large number of transfers into and out of the account from other Gupta

enterprise companies.

For 2013, the only payment into Accurate Investments account that we see from outside of the Gupta enterprise, is from Liebherr.

In 2014, we see Liebherr again as a payee into those accounts. And one other payee by the name of VK Trading, Hong Kong

Unfortunately, I have not been able to determine exactly who that is. But what is very notable is that there are no
10 expenses coming out of that account.

There is no payment of salaries. There is no payment of office costs. There is no payment of any sort of physical infrastructure at all.

ADV CHASKALSON SC: And maybe in that regard, can I ask you and the Chair to ...[intervenes]

CHAIRPERSON: I am sorry. I am sorry. Much earlier, other than the movement of what you identified as money from Transnet, was there much activity in relation to Accurate, showing that they were a company that was really
20 operational, other than just being used for money laundering?

MR HOLDEN: Yes, we do have certain records. Obviously, our records for Accurate only begin at the beginning of 20143 from the Gupta leaks.

CHAIRPERSON: Yes.

MR HOLDEN: But prior to the Liebherr deposits, again, we see no activity that would indicate ...[intervenes]

CHAIRPERSON: Yes.

MR HOLDEN: ...a functioning company that would ...[intervenes]

CHAIRPERSON: Yes.

MR HOLDEN: ...that has staff for or a physical premise.

CHAIRPERSON: Ja, okay alright. Thank you.

ADV CHASKALSON SC: If this tranche, the fifth tranche...

10 **ADV CHASKALSON SC**: Okay there was a further point that I wanted to make in relation to it. The point at which the trial goes cold for you, is a at a point at which all of those funds have ended up in Fidelity accounts. Is that correct?

MR HOLDEN: That is correct Chair.

ADV CHASKALSON SC: Can I ask you to go to – and it is in December 2014 that the trial goes cold.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Can I ask you to go to Flow of Funds, Bundle 5, page 636?

20 **MR HOLDEN**: [No audible reply]

CHAIRPERSON: What is the page number again?

ADV CHASKALSON SC: 636 Chair.

CHAIRPERSON: 636.

ADV CHASKALSON SC: This is the Reserve Bank's spreadsheet record of cross-border transactions of Fidelity

and can I ask you to look at that cross-border transaction on the 5th of January 2015?

MR HOLDEN: Certainly.

ADV CHASKALSON SC: What do you see there?

MR HOLDEN: H'm ...[intervenes]

ADV CHASKALSON SC: Sorry, Chair. Are you at that page?

CHAIRPERSON: Yes, yes, yes.

MR HOLDEN: Chair, what I see here is a payment in, on
10 the 5th of January 2015 into the Oakbay Investment's account. And on the following page, on 672 under the heading: Non-resident surname...[intervenes]

CHAIRPERSON: I am sorry. At 636, you say the 5th of January 2015?

MR HOLDEN: That is correct.

CHAIRPERSON: That is the fourth or fifth item from the top right?

ADV CHASKALSON SC: That is correct Chair.

MR HOLDEN: That is correct Chair.

20 **ADV CHASKALSON SC**: In fact, make a note that it is the fourth item from the top because that how we will follow it across the next pages.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: Because this is one long one.

CHAIRPERSON: Okay. Ja, just... Mr Holden, just mention

the point you make about that item. Just repeat the point you were making.

MR HOLDEN: Certainly. So on the 5th of January, we see a flow in that is paid into Oakbay Investment's account and the relevant column, which is the second last column on the spreadsheet, there would be the CIPC registration number for Oakbay Investments.

CHAIRPERSON: Okay.

MR HOLDEN: And on the following page, again you have to
10 trace the fourth entry because these are supposed to be read next to each other, rather than one after each other.

CHAIRPERSON: H'm, h'm.

MR HOLDEN: We see that the registered address is given us Oakbay Investments registered address. And the payee under the non-resident's surname entry is giving us Fidelity Enterprises. And then finally, the Rand amount is given as R 23 430 328,54.

CHAIRPERSON: Okay. Now on page 367, I have not identified. Just tell me where I see the relevant items?

20 **MR HOLDEN**: Certainly Chair. It is the fourth entry down.

CHAIRPERSON: Fourth entry from the bottom of the page?

MR HOLDEN: No, from the top of the page.

CHAIRPERSON: Oh, the top of the page.

MR HOLDEN: Yes, Chair.

CHAIRPERSON: That is Oakbay, yes.

MR HOLDEN: And if you follow it to the right, we will see the non-resident surname as Fidelity Enterprises.

CHAIRPERSON: Oh, that is the 23 million.

MR HOLDEN: 23 430 328, 54.

CHAIRPERSON: Ja, okay.

MR HOLDEN: And so we have to go again over to the next page.

CHAIRPERSON: Yes.

MR HOLDEN: And if you look at the fourth entry down
10 again, this is a flow of funds number 5, page 638. We have four entries down, an amount of the US Dollar amount is 1.999970 million Dollars.

CHAIRPERSON: Ja, okay.

ADV CHASKALSON SC: No, I am must actually stop at that point. I cannot take the further point that I was hoping I would be able to make. The – can I ask you to go to Volume 50. I am taking you out of your – the topic which you were addressing which is movement on the Accurate accounts because Accurate was the party paid by Liebherr. Can I ask
20 you to go to page 113 of Bundle 5?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And can you tell the Chair what we are looking at here?

MR HOLDEN: Certainly Chair. This was – because it is Annexure A to my Estina report. This is the spreadsheet that

I put together by scraping or collating all the entries, the funds flow entries. I then creating a running balance to the right of that. And then organising that by company which I have now also put on screen because the printed version is incredible difficult to read.

ADV CHASKALSON SC: And do you see any receipts by Accurate, when revenue is coming into Accurate or in this period of 1 March 2013 to 26 February 2014. They do not come either from the Gupta company or from Liebherr.

10 **MR HOLDEN:** On this spreadsheet. No, Chair.

ADV CHASKALSON SC: I suppose in fairness to Liebherr, we should point out that on the 12th of January 2014, there was a cash deposit of 10 000... Oh, but that goes out. Sorry. Can I ask whether you see any payments out to any entity other than the Gupta entity?

MR HOLDEN: I do not.

ADV CHASKALSON SC: And that is for a period... That is for a calendar year?

MR HOLDEN: That is correct Chair.

20 **ADV CHASKALSON SC:** Thanks. Has Liebherr ever tried to explain these payments?

MR HOLDEN: Certainly. They issued one statement in October 2017 which I am sure we will turn to shortly.

ADV CHASKALSON SC: Yes, let us turn then now. It is page one... Well, can you confirm that what we see at 1099

in Bundle 6 is a Liebherr statement?

MR HOLDEN: Correct Chair, that is Liebherr's statement.

CHAIRPERSON: I thought you said 109 at – of
...[intervenes]

ADV CHASKALSON SC: 1099 of Bundle 6 Chair.

CHAIRPERSON: Oh, 1099?

ADV CHASKALSON SC: That is correct.

CHAIRPERSON: Okay let me get there. Okay, okay. Yes?

ADV CHASKALSON SC: Can I ask you to read Liebherr's
10 explanation for these payments in the statement?

MR HOLDEN: Certainly. So as context, Liebherr issued the
statement in response to a media article that was published
by AmaBhungane, which is an investigative – a group of
investigative journalists who do excellent work, who
indicated that based on the Gupta leaks that Liebherr had
been paying money to the Gupta enterprise companies. I
will resume from paragraph 3 of that statement if that makes
sense?

ADV CHASKALSON SC: Well, maybe we should start from
20 paragraph 1. So.

MR HOLDEN: Okay. It says:

“In an article published on July 2017, a group of
investigative South African journalists,
AmaBhungane, mentioned Liebherr Containers
Crane Limited based in Killarney, Ireland in the

context of an alleged kickback scheme, who supply contracts for Transnet and involving the sales agent, Accurate Investments Limited.

Liebherr considered these allegations as very serious. The business practice as described in the article are unacceptable to us.

The commitment to integrity of conduct and a fair competition in the market across the world, is part of our core values.

10 In accordance with group policies, the ultimate holding company of the Liebherr Group, Liebherr International AG, therefore, conducted an internal investigation into the matter.

The result of this investigation showed that the transactions under investigation will legally sound and not in violation of any applicable law or regulations on the part of Liebherr entities and employees involved.

20 The selection of a sales agent such as Accurate Investments Limited to provide interface services to the end-user during the tender, procurement and supply process is a practice which is common in a sales process for capital expenditure projects.

It is also common that such a sales agent receives a nominal commission for the services provided in the

event of the tender, procurement and supply process is successfully completed.”

ADV CHASKALSON SC: Stop... Can I just stop you there?

I think you have already mentioned the amount of the nominal commission that Accurate received in this case. Can you just refresh our memory if you translate it or give a Dollar amount and then translate it into Rands?

MR HOLDEN: Certainly Chair. The total amount that we can track from Liebherr into Accurate Investments is
10 3 232 430,88 Dollars which is equal to R 49 381 200,07 at today's exchange rate.

ADV CHASKALSON SC: And that nominal commission, of course, is only what you can see, not what you note to be the total of what Liebherr paid Accurate.

MR HOLDEN: That is correct.

ADV CHASKALSON SC: Can you continue with the Liebherr's statement?

MR HOLDEN: Yes.

20 “In the case in question, Accurate Investments Limited was the sales representative selected by Liebherr Container Cranes Limited.

As required by the groups due diligent process, Liebherr Container Cranes Limited performed background checks prior to entering into the agency agreement with Accurate Investment Limited.

These background checks did not indicate any malpractice on the part of Accurate Investments Limited.

The internal investigation did observe, however, that the group's defined due diligence process might have been implemented in a more stringent manner in this case, by pushing the performance background checks to an even higher level than the ones actually performed.

10 Being aware of the increased risks associated when agents are included in any type of transaction, the group company's management and employees must strive to ensure that the group's standard of scrutiny and diligence are complied with in day-to-day business."

ADV CHASKALSON SC: I see. Have you ever tried to engage with Liebherr over this quite extraordinary explanation in relation to the kickbacks that they paid to Accurate Investments?

20 **MR HOLDEN:** Certainly Chair. Prior to my submission that I made regarding Transnet and this flow of funds, I thought it appropriate for – to approach Liebherr again a number of years later to ask them detailed questions about this contract and to get their response.

ADV CHASKALSON SC: Can I ask you to turn to page

1107?

MR HOLDEN: [No audible reply]

ADV CHASKALSON SC: And can you tell us what you see there?

MR HOLDEN: Certainly Chair. We see an email that was sent from my email address to three individuals at Liebherr. The first is philipherth@liebherr.com.

The second is sandradiella@liebherr.com. The third is barennicknortman@liebherr.com. And the email was sent on
10 Wednesday, August the 12th, 2020.

ADV CHASKALSON SC: And can you... Well, I think, can you read your email to Liebherr and the questions you asked them?

MR HOLDEN: Certainly. I say:

“Hello. My name is Paul Holden. I am currently the Director of Investigations at Shadow World Investigations...”

And I provide our EUL(?) address SWI.

“SWI intends to publish a lengthy report on the
20 capture of a South African railway facility, Transnet by the Gupta family and their extended network.

This report includes a discussion of the contract entered into between Liebherr Container Cranes Limited and Accurate Investments.

The latter now is well-established as a fund

ultimately controlled by the Gupta family.

Using internal accounting records, our report will trace how the funds paid to Accurate Investments by Liebherr were used by Accurate Investments.

This process has revealed that the funds paid by Liebherr to Accurate were almost always immediately dissipated into other accounts controlled by the Guptas and ultimately used to pay for services delivered to the Gupta family.

10 This includes, for example, using Liebherr funds to hire actors and musicians to perform at the now notorious Sun City wedding of Vega Gupta.

Prior to publishing our report, I was hoping that Liebherr would be willing to answer the following questions which I provide hereunder.

We will include your responses in our final report and any additional media coverage that flows from our findings.

20 I would appreciate a response by the end of the business day, Friday, the 14th of August.”

And here, I delve into the questions. I say:

“Question 1:

On the 16th of October 2017, Liebherr issued a press statement regarding allegations of kickbacks paid to assist Liebherr Africa to secure contracts for

the supply of cranes to Transnet.

The statement indicated that Liebherr had found no evidence of wrongdoing after an internal investigation.

Do you wish to add any further information to this statement or any further clarification?”

At Question 2, I say:

10 “In the same statement, you clarified that Liebherr Container Cranes Limited entered into a sales agreement with Accurate Investments.

In this regard:

2(a) What services did Accurate Investments provide?

2(b) On what date was the agreement with Accurate Investments entered into?

2(c) What was the total value of payments made under the terms of this sales agreement and the last payment was made and when was the agreement said to terminate?

20 2(d) Who signed the sales agreement on behalf of Accurate Investments? Who else from Accurate Investments was Liebherr in contact with regarding this contract and its fulfilment?

2(e) Who signed the sales agreement on behalf of Liebherr Cranes?”

Question 3:

“Accurate Investments is a Dubai invest entity with a sole Indian director, Sanjay Grover, who had no notable connections to South Africa.

The company has no online presence or infrastructure.

Well, the on the ground investigations suggests that they have no physical office.

10 What possible interface services could this company have provided to Liebherr Cranes?

Considerable evidence has emerged, showing that Accurate Investments was controlled by the Gupta family and formed one of a number offshore entities based in Dubai, used by the family to receive and launder and dissipate funds.”

And I then linked to an article which describes that process. And I ask:

“Would you care to comment?”

20 **ADV CHASKALSON SC**: Questions 5 and 6 relate to other matters that we may address at another time in the Commission but are not relevant to evidence today.

MR HOLDEN: Okay.

ADV CHASKALSON SC: Did Liebherr respond?

MR HOLDEN: Certainly they responded the following week on Wednesday, the 19th of August 2020. They wrote back to

me. The individual who wrote back was philipherth@liebherr.com. And they responded:

“Dear Mr Holden. Thank you very much for your message ...[intervenes]

ADV CHASKALSON SC: Sorry. Are you reading now from page 1108?

MR HOLDEN: That is correct.

ADV CHASKALSON SC: 1108.

MR HOLDEN: Yes.

10 **ADV CHASKALSON SC:** Yes.

MR HOLDEN: Yes.

“Dear Mr Holden. Thank you very much for your message. In 2017, we conducted an internal investigation into the role of Liebherr Container Cranes Limited based in Killarney, Ireland in the context of the processes you mentioned.

In doing so, we took into account all the information available to us.

20 In the public statement on October 13th of the same year, we made available the results of this investigation.

Please find the original statement attached to our email.”

ADV CHASKALSON SC: Can I stop you there? Was that the statement that we read a short while ago?

MR HOLDEN: That is correct Chair.

“With the completion of the investigation report and the publication of the results, we considered the case to be concluded for us.

We ask for your understanding in this regard.”

CHAIRPERSON: [laughs] Did you give them the understanding?

MR HOLDEN: [laughs]

CHAIRPERSON: [laughs]

10 **ADV CHASKALSON SC**: And did you understand?

CHAIRPERSON: [laughs]

MR HOLDEN: I understood but I did not agree.

CHAIRPERSON: [laughs]

ADV CHASKALSON SC: Chair, that concludes Mr Holden’s evidence on Liebherr. I am hoping that it does not conclude the Commission’s evidence on Liebherr. We are now about to move to the Transnet’s side of the report and that is quite a detailed introductory leading to set the scene.

CHAIRPERSON: Yes.

20 **ADV CHASKALSON SC**: So with your permission Chair, I would ask that we adjourn at this point.

CHAIRPERSON: Yes.

ADV CHASKALSON SC: And pick that up on Monday.

CHAIRPERSON: Yes, okay alright. So we will continue on... We will have an evening session on Monday. That is

when Mr Holden will continue, right?

ADV CHASKALSON SC: Sorry, Chair. At what time should Mr Holden make himself available on Monday?

CHAIRPERSON: I think maybe he should be here at five. I think that is safe, five o'clock.

ADV CHASKALSON SC: Thank you Chair.

CHAIRPERSON: Ja, ja. Okay thank you very much. Thank you very much Mr Holden. But you will be back on Monday. Thank you very much. We will adjourn for the day.

10 And then, next week during the day, I will hear evidence relating to Eskom and then in the evenings I will hear evidence relating to money flows. Okay alright. It will be money flows throughout Mr Chaskalson or there would be others that are not money flows?

ADV CHASKALSON SC: There will be witnesses from Mackenzie coming on Wednesday and Thursday.

CHAIRPERSON: Oh, it is Wednesday and Thursday. Okay, okay, alright. We will adjourn for the day. Thank you. We adjourn.

20 **INQUIRY ADJOURNS TO 7 DECEMBER 2020**